

Senate, No. 2205

[Senate, November 13, 2009 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2201]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT RELATIVE TO EDUCATION REFORM

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to drive forthwith innovation into school districts and turnaround underperforming schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 SECTION 1. Chapter 7 of the General Laws is hereby amended by striking out section 22A, as
2 appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

3 Section 22A. Notwithstanding any other general or special law relating to collective
4 purchasing, but subject to all other laws regulating public purchases and competitive bidding,
5 the commonwealth and 1 or more of its cities, towns, districts, counties, authorities or
6 commonwealth or Horace Mann charter schools, or 2 or more cities, towns, districts, counties,

7 authorities or commonwealth or Horace Mann charter schools, hereinafter called political
8 subdivisions, may make purchases of materials, supplies, equipment or services through the
9 state purchasing agent subject to such rules, regulations and procedures as may be established
10 from time to time by the purchasing agent; provided, however, that the political subdivision
11 shall accept sole responsibility for any payment due the vendor for its share of such purchase.

12 **SECTION 2.** Chapter 40 of the General Laws is hereby amended by striking out section
13 4E, as so appearing, and inserting in place thereof the following section:-

14 Section 4E. Two or more school committees of cities, towns and regional school districts
15 and boards of trustees of charter schools may enter into a written agreement to conduct
16 education programs and services which shall complement and strengthen the school programs
17 of member school committees and charter schools and increase educational opportunities for
18 children. The school committees and boards of trustees of charter schools shall collaborate to
19 offer the programs and services, and the association of school committees and charter schools
20 which is formed pursuant hereof to deliver the programs and services shall be known as an
21 education collaborative.

22 The education collaborative shall be managed by a board of directors which shall be
23 comprised of 1 person appointed by each member school committee and 1 person appointed by
24 each member charter board of trustees. All appointed persons shall be either a school committee
25 member or his designee, or the superintendent of schools or his designee, or a member of the
26 charter board of trustees. Members of the board of directors shall be entitled to a vote according
27 to the terms of the education collaborative agreement. The department of education shall
28 appoint an individual to serve in an advisory capacity to the education collaborative board. The

29 individual shall not be entitled to vote on any matter which comes before the board of directors
30 of the education collaborative.

31 The written agreement which shall form the basis of the education collaborative shall set
32 forth the purposes of the program or service, the financial terms and conditions of membership
33 of the education collaborative, the method of termination of the education collaborative and of
34 the withdrawal of member school committees, the procedure for admitting new members and
35 for amending the collaborative agreement, the powers and duties of the board of directors of the
36 education collaborative to operate and manage the education collaborative and any other matter
37 not incompatible with law which the member committees and charter schools consider
38 advisable. The agreement shall be subject to the approval of the member school committees and
39 the commissioner of education.

40 Each board of directors of an education collaborative shall establish and manage a trust
41 fund, to be known as an Education Collaborative Trust Fund, and each such fund shall be
42 designated by an appropriate name. All monies contributed by the member municipalities and
43 charter schools and all grants or gifts from the federal government, state government, charitable
44 foundations, private corporations or any other source shall be paid to the board of directors of
45 the education collaborative and deposited in the fund.

46 The board of directors of the education collaborative shall appoint a treasurer who may
47 be a treasurer of a city, town or regional school district belonging to the collaborative. The
48 treasurer shall be authorized, subject to the direction of the board of directors of the education
49 collaborative, to receive and disburse all monies of the trust fund without further appropriation.
50 The treasurer shall give bond annually for the faithful performance of his duties as collaborative

51 treasurer in a form approved by the department of revenue and in the sum, not less than the
52 amount established by the department, as shall be fixed by the board of directors of the
53 education collaborative. The board of directors of the education collaborative in its discretion
54 may pay compensation to the treasurer for his services. No member of the board of directors of
55 the education collaborative shall be eligible to serve as treasurer of the collaborative.

56 The treasurer of the education collaborative board of directors shall have the authority to
57 make appropriate investments of the monies of the Education Collaborative Trust Fund
58 consistent with section 54 of chapter 44.

59 The board of directors of an educational collaborative may borrow money, enter into
60 long-term or short-term loan agreements or mortgages and apply for state, federal or corporate
61 grants or contracts to obtain funds necessary to carry out the purpose for which such
62 collaborative is established; provided, however, that the board of directors has determined that
63 any borrowing, loan or mortgage is cost-effective and in the best interest of the collaborative
64 and its member municipalities and charter schools. The borrowing, loans or mortgages shall be
65 consistent with the written agreement and articles of incorporation, if any, of the educational
66 collaborative and shall be consistent with standard lending practices.

67 The board of directors of the education collaborative may employ an executive officer
68 who shall serve under the general direction of the board and who shall be responsible for the
69 care and supervision of the education collaborative.

70 The board of directors of the education collaborative shall be considered to be a public
71 employer and have the authority to employ personnel, including teachers, to carry out the

72 purposes and functions of the education collaborative. No person shall be eligible for
73 employment by the board of directors as an instructor of children with severe special needs,
74 teacher of children with special needs, teacher, guidance counselor or school psychologist
75 unless the person has been granted a certificate by the board of education under section 38G of
76 chapter 71 or section 6 of chapter 71A or an approval under the regulations promulgated by the
77 board of education under chapter 71B or chapter 74 with respect to the type of position for
78 which he seeks employment; provided, however, that nothing herein shall be construed to
79 prevent a board of directors of an education collaborative from prescribing additional
80 qualifications. A board of directors of an education collaborative may, upon its request, be
81 exempted by the board of education for any 1 school year from the requirements of this section
82 to employ certified or approved personnel when compliance therewith would in the opinion of
83 the board constitute a great hardship.

84 The education collaborative shall be considered to be a public entity and shall have
85 standing to sue and be sued to the same extent as a city, town or regional school district. An
86 education collaborative, acting through its board of directors, may enter into contracts for the
87 purchase of supplies, materials and services and for the purchase or leasing of land, buildings
88 and equipment as considered necessary by the board of directors.

89 A school committee of a city, town or regional school district or board of trustees of a
90 charter school may authorize the prepayment of monies for an educational program or service of
91 the education collaborative, to the treasurer of an education collaborative and the city, town or
92 regional school district or charter school treasurer shall be required to approve and pay the
93 monies in accordance with the authorization of the school committee or board of trustees.

94 SECTION 3. Chapter 69 of the General Laws, is hereby amended by striking out section 1J,
95 as so appearing, and inserting in place thereof the following section:-

96 Section 1J. (a) The commissioner of elementary and secondary education may, on the basis of
97 student performance data collected pursuant to section 1I, a school or district review performed under
98 section 55A of chapter 15, or regulations adopted by the board of elementary and secondary education,
99 designate 1 or more schools in a school district other than a Horace Mann charter school as
100 underperforming or chronically underperforming. The board shall adopt regulations establishing
101 standards for the commissioner to make such designations on the basis of data collected pursuant to
102 section 1I or a school or district review performed under section 55A of chapter 15. Schools that score
103 in the lowest 20 per cent statewide in the combined composite performance index scores on the English
104 language arts and mathematics Massachusetts Comprehensive Assessment System exams shall be
105 deemed eligible for designation as underperforming or chronically underperforming status. Not more
106 than 5 per cent of the public schools in the commonwealth may be designated as underperforming or
107 chronically underperforming at any given time. If the department is no longer using the combined
108 composite performance index as a measure of school and district performance, the department shall use
109 the subsequently developed measure to determine the lowest 20 per cent of schools.

110 In adopting regulations allowing the commissioner to designate a school as underperforming or
111 chronically underperforming, the board must ensure that such regulations take into account multiple
112 indicators of school quality in making determinations regarding underperformance or chronic
113 underperformance, such as student attendance, promotion rates, graduation rates or the lack of
114 demonstrated significant improvement for 2 or more consecutive years in core academic subjects, either
115 in the aggregate or among subgroups of students, including designations based special education, low-
116 income, English language proficiency and racial classifications.

117 Before a school is considered chronically underperforming by the commissioner, a school must
118 be considered underperforming and consistently fail to improve pursuant to the regulations.

119 An underperforming or chronically underperforming school described in the following
120 subsections shall operate in accordance with laws regulating other public schools, except as such
121 provisions may conflict with this section or any innovation plans created thereunder. A student who is
122 enrolled in a school at the time it is designated as underperforming or chronically underperforming shall
123 retain the ability to remain enrolled in the school if the student chooses to do so.

124 (b) Upon the designation of a school as an underperforming school in accordance with
125 regulations developed pursuant to this section, the superintendent of the district, in consultation with the
126 commissioner, shall create an innovation plan for the school, under subsections (b) to (e), inclusive.

127 Before the superintendent creates the innovation plan required in this subsection, the
128 superintendent shall convene a local stakeholder group of not more than 11 individuals, for the purpose
129 of soliciting recommendations on the content of such plan in order to maximize the rapid academic
130 achievement of students at the school. The group shall include: (1) the commissioner, or a designee; (2)
131 the chair of the school committee, or a designee; (3) the president of the local teacher's union, or a
132 designee; (4) an administrator from the school, who may be the principal, chosen by the superintendent;
133 (5) a teacher from the school chosen by the faculty of the school; (6) a parent from the school chosen by
134 the local parent organization; (7) representatives of applicable state and local social service, health, and
135 child welfare agencies, chosen by the superintendent; and (8) as appropriate, representatives of state and
136 local workforce development agencies, chosen by the superintendent. If the school or district does not
137 have a parent organization or if the organization does not select a parent, the superintendent shall select a
138 volunteer parent of a student from the school. The superintendent shall convene such group within 30
139 days of the commissioner designating a school as underperforming and the group shall make its
140 recommendations to the superintendent within 45 days of its initial meeting. Meetings of the local

141 stakeholder group shall be open to the public and the recommendations submitted to the superintendent
142 under this subsection shall be publicly available immediately upon their submission.

143 (c) In creating the innovation plan in subsection (b) the superintendent shall include, after
144 considering the recommendations of the local stakeholder group, provisions intended to maximize the
145 rapid academic achievement of students at the school and shall, to the extent practicable, base the plan
146 on student outcome data, including, but not limited to: (1) data collected pursuant to section 1I or a
147 school or district review performed under section 55A of chapter 15; (2) student achievement on the
148 Massachusetts Comprehensive Assessment System; (3) other measures of student achievement, as
149 appropriate; (4) student promotion and graduation rates; (5) achievement data for different subgroups of
150 students, including low-income students as defined in chapter 70, limited English-proficient students and
151 students receiving special education; and (6) student attendance and dismissal rates.

152 The superintendent shall also include in the creation of the innovation plan, after considering the
153 recommendations of the local stakeholder group, the following: (1) steps to address social service and
154 health needs of students at the school and their families, in order to help students arrive and remain at
155 school ready to learn; (2) steps to improve or expand child welfare services and, as appropriate, law
156 enforcement services in the school community, in order to promote a safe and secure learning
157 environment; (3) steps to improve workforce development services provided to students and their
158 families at the school, in order to provide students and families with meaningful employment skills and
159 opportunities; (4) steps to address achievement gaps for limited English-proficient, special education and
160 low-income students; and (5) a budget for the school, including any additional funds to be provided by
161 the district, commonwealth, federal government or other sources.

162 The secretaries of health and human services, labor and workforce development, public safety
163 and other applicable state and local social service, health and child welfare officials shall coordinate with
164 the superintendent regarding the implementation of strategies under clauses (1) to (3), inclusive, of the

165 second paragraph that are included in a final innovation plan and shall, subject to appropriation,
166 reasonably support such implementation consistent with the requirements of state and federal law
167 applicable to the relevant programs that each such official is responsible for administering. The
168 secretary of education and the commissioner of elementary and secondary education shall assist the
169 superintendent in facilitating the coordination.

170 In order to assess the school across multiple measures of school performance and student
171 success, the innovation plan shall include measurable annual goals including, but not limited to, the
172 following: (1) student attendance; (2) student safety and discipline; (3) student promotion and
173 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5)
174 progress in areas of academic underperformance; (6) progress among subgroups of students, including
175 low-income students as defined by chapter 70, limited English-proficient students and students receiving
176 special education; (7) reduction of achievement gaps among different groups of students; (8) student
177 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the
178 elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
179 academic success among students; (12) building a culture of student support and success among school
180 faculty; and staff and (13) developmentally appropriate child assessments from pre-kindergarten through
181 third grade, if applicable.

182 (d) Notwithstanding any general or special law to the contrary, in creating the innovation plan
183 required in subsection (b), the superintendent may, after considering the recommendations of the group
184 of stakeholders: (1) expand, alter or replace the curriculum of the school, including the implementation
185 of research-based early literacy programs and the teaching of advanced placement courses, if the school
186 does not already have such programs or courses; (2) reallocate the uses of the existing budget of the
187 school; (3) provide additional funds to the school from the budget of the district, if the school does not
188 already receive funding from the district at least equal to the average per pupil funding received for
189 students of the same classification and grade level in the district; (4) provide funds, subject to

190 appropriation and following consultation with applicable local unions, to increase the salary of any
191 administrator or teacher in the school, in order to attract and retain highly-qualified administrators or
192 teachers or to reward administrators or teachers who work in underperforming schools that achieve the
193 annual goals set forth in the innovation plan; (5) expand the school day or school year of the school; (6)
194 for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not
195 already have such classes; (7) following consultation with applicable local unions, require the principal
196 and all administrators, teachers and staff to reapply for their positions in the school, with full discretion
197 vested in the superintendent regarding his consideration of and decisions on rehiring based on the
198 reapplications; (8) limit, suspend or change 1 or more school district policies, as such policies relate to
199 the school; (9) include a provision of job-embedded professional development for teachers at the school,
200 with an emphasis on strategies that involve teacher input and feedback; (10) provide for increased
201 opportunities for teacher planning time and collaboration focused on improving student instruction; (11)
202 put in place a plan for professional development for administrators at the school, with an emphasis on
203 strategies that develop leadership skills and use the principles of distributive leadership; (12) establish
204 steps to assure a continuum of high-expertise teachers by aligning the following processes with the
205 common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional
206 development, teacher advancement, school culture and organizational structure; (13) develop a strategy
207 to search for and study best practices in areas of demonstrated deficiency in the school; (14) establish
208 strategies to address mobility and transiency among the student population of the school; and (15)
209 include additional components based on the reasons why the school was designated as underperforming
210 and the recommendations of the group of stakeholders in subsection (b).

211 For a school with limited English-proficient students, the professional development and planning
212 time for teachers and administrators identified in clauses (9) to (11), inclusive, shall include specific
213 strategies and content designed to maximize the rapid academic achievement of limited English-
214 proficient students at the school.

215 (e) Within 30 days of the local stakeholder group making recommendations under subsection
216 (b), the superintendent shall submit an innovation plan to the local stakeholder group, the school
217 committee and the commissioner, all of whom may propose modifications to the plan. The
218 superintendent shall make such plan immediately available to the public upon the submission. The
219 stakeholder group, the school committee and the commissioner shall submit any proposed modifications
220 to the superintendent not more than 30 days after the date of submission of the innovation plan and the
221 proposed modifications shall be made public immediately upon their submission to the superintendent.
222 The superintendent shall consider and may incorporate the modifications into the plan if the
223 superintendent determines that inclusion of the modifications would further promote the rapid academic
224 achievement of students at the school or may alter or reject the proposed modifications submitted under
225 this subsection. Within 30 days of receiving any proposed modifications under this subsection, the
226 superintendent shall issue a final innovation plan for the school and the plan shall be made publicly
227 available.

228 (f) Within 30 days of the issuance of a final innovation plan under subsection (e), a school
229 committee or local teacher's union may appeal to the commissioner regarding 1 or more components of
230 the plan, including the absence of 1 or more modifications proposed under subsection (e). The
231 commissioner may, in consultation with the superintendent, modify the plan if the commissioner
232 determines that: (1) such modifications would further promote the rapid academic achievement of
233 students in the applicable school; (2) a component of the plan was included, or a modification was
234 excluded, on the basis of demonstrably-false information or evidence; or (3) the superintendent failed to
235 meet the requirements of subsections (b) to (e), inclusive. The decision of the commissioner regarding an
236 appeal under this subsection shall be made within 30 days and shall be final.

237 (g) If the superintendent considers it necessary to maximize the rapid academic achievement of
238 students at the school by altering the compensation, hours and working conditions of the administrators,
239 teachers and staff at the school or by altering other provisions of a contract or collective bargaining

240 agreement applicable to the administrators, teachers and staff, the superintendent may request that the
241 school committee and any applicable union bargain or reopen the bargaining of the relevant collective
242 bargaining agreement to facilitate such achievement. The bargaining shall be conducted in good faith
243 and completed not later than 40 days from the date on which the superintendent requests the parties to
244 bargain. The agreement shall be subject to ratification by a majority of the bargaining unit members in
245 the school who will be subject to such agreement. If an agreement is not reached or the agreement has
246 not been so ratified 10 days after its completion, the employer shall have the authority to declare an
247 impasse and unilaterally implement his last, best offer concerning proposed changes to the collective
248 bargaining agreement; provided, however, that the employer shall not reduce the compensation and
249 benefits of any administrator, teacher or staff member unless the hours of such person are
250 proportionately reduced.

251 If the superintendent considers it necessary to maximize the rapid academic achievement of
252 students at the school by altering the terms and length of the contract of the principal at the school, the
253 superintendent, under section 59B of chapter 71, may renegotiate the terms and length of the contract to
254 facilitate the achievement. The negotiation shall be completed not later than 40 days from the date on
255 which the superintendent requests the parties to negotiate. If an agreement has not been reached after 40
256 days, the employer shall have the authority to implement the proposed changes to the contract.

257 (h) The superintendent may select an external receiver to operate the school and implement the
258 innovation plan or to assist the superintendent with the implementation. The superintendent may appoint
259 the receiver if the superintendent determines that conditions exist in the district that are likely to
260 negatively affect his ability to implement the plan successfully. A school committee may appeal to the
261 commissioner the decision of the superintendent to appoint an external receiver. The commissioner may
262 reverse such decision only if he determines that the superintendent made the decision on the basis of
263 demonstrably-false information or evidence. A receiver shall be a non-profit entity or an individual with
264 a demonstrated record of success in improving low-performing schools or the academic performance of

265 disadvantaged students. A receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A
266 receiver who is an individual shall also be subject to chapter 268A.

267 (i) An external receiver selected by the superintendent to operate a school shall have full
268 managerial and operational control over the school as provided in the innovation plan. For all other
269 purposes, the school district in which the school is located shall remain the employer of record.

270 (j) Each innovation plan shall be authorized for a period of not more than 3 years, subject to
271 subsection (k). The superintendent or external receiver, as applicable, may develop additional
272 components of the innovation plan and shall develop annual goals for each component of the plan. The
273 superintendent or external receiver, as applicable, shall be responsible for meeting the goals of the plan.

274 (k) Each school designated by the commissioner as underperforming under subsection (a) shall
275 be reviewed by the superintendent, in consultation with the principal of the school, at least annually.
276 The purpose of the review shall be to determine whether the school has met the annual goals in its
277 innovation plan and to assess the overall implementation of the innovation plan. The review shall be in
278 writing and shall be submitted to the commissioner and the relevant school committee not later than July
279 1 for the preceding school year. The review shall be submitted in a format determined by the department
280 of elementary and secondary education.

281 If the commissioner determines that the school has met the annual performance goals stated in
282 the innovation plan, the review shall be considered sufficient and the implementation of the innovation
283 plan shall continue. If the commissioner determines that the school has not met 1 or more goals in the
284 innovation plan and that the failure to meet the goals may be corrected through reasonable modification
285 of the plan, the superintendent may amend the innovation plan. If the commissioner determines that the
286 school has substantially failed to meet 1 or more goals in the plan, the commissioner may appoint an
287 examiner to conduct an evaluation of the school's implementation of the innovation plan.

288 If the commissioner determines that the school has substantially failed to meet multiple goals in
289 the plan, the commissioner may require changes to the innovation plan to be implemented by the
290 superintendent in the following year. If the changes to the innovation plan require changes in a
291 collective bargaining agreement applicable to administrators, teachers or staff in the school, the
292 bargaining procedure in subsection (g) shall be used. If an underperforming school is operated by an
293 external receiver, the commissioner may require the superintendent to terminate the receiver and develop
294 a new innovation plan; provided, however, that the superintendent shall not terminate the receiver before
295 the completion of the first full school year of the operation of the underperforming school.

296 (l) Upon the expiration of an innovation plan, the commissioner shall conduct a review of the
297 school to determine whether the school has improved sufficiently, requires further improvement or has
298 failed to improve. On the basis of such review, the commissioner may determine that: (1) the school has
299 improved sufficiently for the designation of the school as underperforming to be removed; (2) the school
300 has improved, but the school remains underperforming, in which case the superintendent may, with the
301 approval of the commissioner, renew the plan or create a new or modified plan for an additional period
302 of not more than 3 years; or (3) consistent with the requirements of subsection (a), the school is
303 chronically underperforming. The commissioner may recommend the appointment of an external
304 receiver by the superintendent if the commissioner believes that a new or modified innovation plan
305 implemented by the superintendent will not result in rapid improvement. In carrying out this subsection,
306 the superintendent shall: (1) in the case of a renewal of an innovation plan, determine subsequent annual
307 goals for each component of the plan with the input of the local stakeholder group as defined in
308 subsection (b); or (2) create a new or modified innovation plan as necessary, consistent with the
309 requirements of this section.

310 (m) Upon the designation of a school as a chronically underperforming school in accordance
311 with the regulations developed under this section, the commissioner shall create an innovation plan for
312 the school under subsections (m) to (p), inclusive.

313 Before creating the innovation plan required in this subsection, the commissioner shall convene
314 a local stakeholder group of not more than 11 individuals for the purpose of soliciting recommendations
315 on the content of such plan in order to maximize the rapid academic achievement of students. The group
316 shall include: (1) the superintendent, or a designee; (2) the chair of the school committee, or a designee;
317 (3) the president of the local teacher's union, or a designee; (4) an administrator from the school, who
318 may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the faculty
319 of the school; (6) a parent from the school chosen by the local parent organization; (7) representatives of
320 applicable state and local social service, health and child welfare agencies, chosen by the commissioner;
321 and (8) as appropriate, representatives of state and local workforce development agencies, chosen by the
322 commissioner. If the school or district does not have a parent organization or if the organization does
323 not select a parent, the commissioner shall select a volunteer parent of a student from the school. The
324 commissioner shall convene the group within 30 days of the designation of a school as chronically
325 underperforming and the group shall make its recommendations to the commissioner within 45 days of
326 its initial meeting. Meetings of the local stakeholder group shall be open to the public and the
327 recommendations submitted to the commissioner under this subsection shall be publicly available
328 immediately upon their submission.

329 (n) In creating the innovation plan required in subsection (m), the commissioner shall include,
330 after considering the recommendations of the local stakeholder group, provisions intended to maximize
331 the rapid academic achievement of students at the school and shall, to the extent practicable, base the
332 plan on student outcome data, including, but not limited to: (1) data collected under section 1I or a
333 school or district review performed under section 55A of chapter 15; (2) student achievement on the
334 Massachusetts Comprehensive Assessment System; (3) other measures of student achievement, as
335 appropriate; (4) student promotion and graduation rates; (5) achievement data for different subgroups of
336 students, including low-income students as defined by chapter 70, limited English-proficient students
337 and students receiving special education; and (6) student attendance and dismissal rates.

338 The commissioner shall include in the creation of the innovation plan, after considering the
339 recommendations of the local stakeholder group, the following: (1) steps to address social service and
340 health needs of students at the school, and their families, in order to help students arrive and remain at
341 school ready to learn; (2) steps to improve or expand child welfare services and, as appropriate, law
342 enforcement services in the school community, in order to promote a safe and secure learning
343 environment; (3) steps to improve workforce development services provided to students at the school,
344 and their families, in order to provide students and families with meaningful employment skills and
345 opportunities; (4) steps to address achievement gaps for limited English-proficient, special education
346 and low-income students; and (5) a budget for the school, including any additional funds to be provided
347 by the district, commonwealth, federal government or other sources.

348 The secretaries of health and human services, labor and workforce development, public safety
349 and other applicable state and local social service, health and child welfare officials shall coordinate with
350 the secretary of education and the commissioner regarding the implementation of strategies under
351 clauses (1) to (3), inclusive, of the second paragraph that are included in a final innovation plan and
352 shall, subject to appropriation, reasonably support the implementation consistent with the requirements
353 of state and federal law applicable to the relevant programs that each official is responsible for
354 administering.

355 In order to assess the school across multiple measures of school performance and student
356 success, the innovation plan shall include measurable annual goals including, but not limited to, the
357 following: (1) student attendance; (2) student safety and discipline; (3) student promotion and
358 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5)
359 progress in areas of academic underperformance; (6) progress among subgroups of students, including
360 low-income students as defined by chapter 70, limited English-proficient students and students receiving
361 special education; (7) reduction of achievement gaps among different groups of students; (8) student
362 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the

363 elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
364 academic success among students; (12) building a culture of student support and success among school
365 faculty and staff; and (13) developmentally appropriate child assessments from pre-kindergarten through
366 third grade, if applicable.

367 (o) In creating the innovation plan required in subsection (m), the commissioner may, after
368 considering the recommendations of the group of stakeholders: (1) expand, alter or replace the
369 curriculum of the school, including the implementation of research-based early literacy programs and the
370 teaching of advanced placement courses, if the school does not already have such programs or courses;
371 (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the school
372 from the budget of the district, if the school does not already receive funding from the district at least
373 equal to the average per pupil funding received for students of the same classification and grade level in
374 the district; (4) provide funds, subject to appropriation, to increase the salary of an administrator or
375 teacher in the school, in order to attract and retain highly-qualified administrators or teachers or to
376 reward administrators or teachers who work in chronically underperforming schools that achieve the
377 annual goals set forth in the innovation plan; (5) expand the school day or school year of the school; (6)
378 for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not
379 already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or
380 collective bargaining agreement, as the contract or agreement applies to the school; provided, however
381 that the change may include the adoption of model provisions identified by the commissioner from
382 among existing contracts or collective bargaining agreements , provided, further, that the commissioner
383 shall not reduce the compensation of an administrator, teacher or staff member unless the hours of the
384 person are proportionately reduced; (8) require the principal and all administrators, teachers and staff to
385 reapply for their positions in the school, with full discretion vested in the commissioner regarding his
386 consideration of and decisions on rehiring based on the reapplications; (9) limit, suspend or change 1 or
387 more school district policies; (10) include a provision of job-embedded professional development for

388 teachers at the school, with an emphasis on strategies that involve teacher input and feedback; (11)
389 provide for increased opportunities for teacher planning time and collaboration focused on improving
390 student instruction; (12) establish a plan for professional development for administrators at the school,
391 with an emphasis on strategies that develop leadership skills and use the principles of distributive
392 leadership; (13) establish steps to assure a continuum of high expertise teachers by aligning the
393 following processes with the common core of professional knowledge and skill: hiring, induction,
394 teacher evaluation, professional development, teacher advancement, school culture and organizational
395 structure; (14) develop a strategy to search for and study best practices in areas of demonstrated
396 deficiency in the school; (15) establish strategies to address mobility and transiency among the student
397 population of the school; and (16) include additional components, at the discretion of the commissioner,
398 based on the reasons the school was designated as chronically underperforming and the
399 recommendations of the local stakeholder group in subsection (m).

400 For a school with limited English-proficient students, the professional development and planning
401 time for teachers and administrators identified in clauses (10) to (12), inclusive, shall include specific
402 strategies and content designed to maximize the rapid academic achievement of the limited English-
403 proficient students.

404 If the commissioner proposes to reallocate funds to the school from the budget of the district
405 under clause (3), the commissioner shall notify the school committee, in writing, of the amount of and
406 rationale for the reallocation.

407 (p) Within 30 days of the local stakeholder group making recommendations under subsection
408 (m), the commissioner shall submit an innovation plan to the local stakeholder group, the superintendent
409 and the school committee, all of whom may propose modifications to the plan. The commissioner shall
410 make the plan immediately available to the public upon submission. The stakeholder group, the
411 superintendent and the school committee shall submit any proposed modifications to the commissioner

412 within 30 days after the date of submission of the innovation plan and the proposed modifications shall
413 be made public immediately upon their submission to the commissioner. The commissioner shall
414 consider and incorporate the modifications into the plan if the commissioner determines that inclusion of
415 the modifications would further promote the rapid academic achievement of students at the applicable
416 school. The commissioner may alter or reject modifications submitted pursuant to this subsection.
417 Within 30 days of receiving any proposed modifications, the commissioner shall issue a final innovation
418 plan for the school and the plan shall be made publicly available.

419 (q) Within 30 days of the issuance of a final innovation plan under subsection (p), a
420 superintendent, school committee or local teacher's union may appeal to the board of elementary and
421 secondary education regarding 1 or more components of the plan, including the absence of 1 or more
422 modifications proposed under subsection (p). A majority of the board, as fully constituted, may vote to
423 modify the plan if the board determines that: (1) such modifications would further promote the rapid
424 academic achievement of students in the applicable school; (2) a component of the plan was included, or
425 a modification was excluded, on the basis of demonstrably-false information or evidence; or (3) the
426 commissioner failed to meet the requirements of subsections (m) to (p), inclusive. The decision of the
427 board regarding an appeal under this subsection shall be made within 30 days and shall be final.

428 (r) In the case of a chronically underperforming school, the commissioner may, under the
429 circumstances described in this subsection, send a targeted assistance team to the school to assist the
430 superintendent with the implementation of the innovation plan, require the superintendent to implement
431 the innovation plan, or select an external receiver to operate the school and implement the innovation
432 plan. The commissioner may appoint such receiver if the commissioner determines that: (1) the
433 superintendent is unlikely to implement the plan successfully; or (2) conditions exist in the district that
434 are likely to negatively affect the ability of the superintendent to implement such plan successfully. A
435 receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving
436 low performing schools or the academic performance of disadvantaged students. A receiver shall be

437 subject to section 11A½ of chapter 30A and chapter 66. A receiver who is an individual shall also be
438 subject to chapter 268A.

439 The commissioner may select the external receiver upon the designation of a school as
440 chronically underperforming. The external receiver may serve as the commissioner's designee for the
441 purpose of creating a school's innovation plan under subsections (m) to (p), inclusive.

442 (s) An external receiver selected by the commissioner to operate a chronically underperforming
443 school shall have full managerial and operational control over the school as provided in the innovation
444 plan. For all other purposes, the school district in which the school is located shall remain the employer
445 of record.

446 (t) Each innovation plan shall be authorized for a period of not more than 3 years, subject to of
447 subsection (v). The superintendent or external receiver, as applicable, may develop additional
448 components of the plan and shall develop annual goals for each component of the plan, all of which must
449 be approved by the commissioner. The superintendent or external receiver, as applicable, shall be
450 responsible for meeting the goals of the innovation plan.

451 (u) The commissioner or external receiver, as applicable, shall provide a written report to the
452 school committee on a quarterly basis to provide specific information about the progress being made on
453 the implementation of the school's innovation plan. One of the quarterly reports shall be the annual
454 evaluation under subsection (v).

455 (v) The commissioner shall evaluate each chronically underperforming school at least annually.
456 The purpose of the evaluation shall be to determine whether the school has met the annual goals in its
457 innovation plan and assess the implementation of the plan at the school. The review shall be in writing
458 and shall be submitted to the superintendent and the school committee not later than July 1 for the
459 preceding school year.

460 If the commissioner determines that the school has met the annual performance goals stated in
461 the innovation plan, the review shall be considered sufficient and the implementation of the innovation
462 plan shall continue. If the commissioner determines that the school has not met 1 or more goals in the
463 plan, the commissioner may modify the plan.

464 If the commissioner determines that the school has substantially failed to meet multiple goals in
465 the plan, the commissioner may: (1) if the school is operated by a superintendent, appoint an external
466 receiver, as defined in subsection (r), to operate the school; or (2) if the school is operated by an external
467 receiver terminate the contract of the external receiver; provided, however, that the commissioner shall
468 not terminate the receiver before the completion of the first full school year of the operation of the
469 chronically underperforming school.

470 (w) Upon the expiration of an innovation plan for a chronically underperforming school, the
471 commissioner shall conduct a review of the school to determine whether the school has improved
472 sufficiently, requires further improvement or has failed to improve. On the basis of such review, the
473 commissioner may: (1) on the basis of a superintendent's or external receiver's success in meeting the
474 terms of the plan, renew the plan with the superintendent or external receiver for an additional period of
475 not more than 3 years; (2) if a school that is operated by a superintendent and remains chronically
476 underperforming, appoint an external receiver, as defined in subsection (r), to operate the school; (3) if a
477 chronically underperforming school that is operated by an external receiver and remains chronically
478 underperforming, transfer the operation of the school from the receiver to the applicable superintendent
479 or to another external receiver; or (4) determine that the school has improved sufficiently for the
480 designation of chronically underperforming to be removed. The commissioner shall: (1) in the case of a
481 renewal of an innovation plan, jointly determine subsequent annual goals for each component of the plan
482 with the superintendent or external receiver, as applicable; or (2) create a new or modified innovation
483 plan as necessary, consistent with the requirements of this section.

484 (x) The board of elementary and secondary education shall adopt regulations regarding: (1)
485 the conditions under which an underperforming or chronically underperforming school shall no longer
486 be designated as an underperforming or chronically underperforming school; and (2) the transfer of the
487 operation of an underperforming or a chronically underperforming school from a superintendent or an
488 external receiver, as applicable, to the school committee. The regulations shall include provisions to
489 allow a school to retain measures adopted in an innovation plan if, in the judgment of the commissioner,
490 the measures would contribute to the continued improvement of the school.

491 (y) The commissioner shall report annually to the joint committee on education, the house and
492 senate committees on ways and means, the speaker of the house of representatives and the senate
493 president on the implementation and fiscal impact of this section and section 1K. The report include, but
494 not be limited to, a list of all schools currently designated as underperforming or chronically
495 underperforming, a list of all districts currently designated as chronically underperforming, the plans and
496 timetable for returning the schools and districts to the local school committee and strategies used in each
497 of the schools and districts to maximize the rapid academic achievement of students.

498 SECTION 4. Chapter 69 of the General Laws is hereby amended by striking out section 1K, as
499 so appearing, and inserting in place thereof the following section:-

500 Section 1K. (a) Upon a determination by the board of elementary and secondary education,
501 pursuant to regulations, that a school district has scored in the lowest 5 per cent statewide in the
502 combined composite performance index for English language arts and math, the commissioner shall
503 appoint an independent fact-finding team to assess the reasons for the underperformance and the
504 prospects for improvement. The fact-finding team shall include at least one person with expertise in the
505 academic achievement of limited English-proficient students. Upon review of the findings of the fact-
506 finding team, the board may declare the district chronically underperforming on the basis of student
507 performance data collected pursuant to section 1I, district review performed under section 55A of

chapter 15, or upon regulations adopted by the board. Following such a declaration, the board shall designate a receiver for the district with all the powers of the superintendent and school committee. The receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low-performing schools or districts or the academic performance of disadvantaged students who shall report directly to the commissioner. An external receiver designated by the board to operate a district under this subsection shall have full managerial and operational control over such district; provided, however, that the school district shall remain the employer of record for all other purposes. A receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter 268A.

Not more than 2 per cent of the commonwealth's school districts may be designated as chronically underperforming at any given time.

In adopting regulations allowing the board to designate a district as chronically underperforming, the board must ensure that the regulations account for multiple indicators of district quality including student attendance, student promotion and graduation rates in the district, or the lack of demonstrated significant improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based on special education classification, low-income, English language proficiency and racial classifications.

(b) The commissioner and the receiver shall jointly create an innovation plan to promote the rapid improvement of the chronically underperforming district. The plan shall specifically focus on the school or schools in the district that have been labeled chronically underperforming under section 1J and the district policies that have contributed to chronic underperformance.

Before creating the innovation plan required in this subsection, the commissioner and receiver shall convene a local stakeholder group of not more than 11 individuals for the purpose of soliciting recommendations on the content of such plan in order to maximize the rapid academic achievement of

532 students. The group shall include: (1) the superintendent, or a designee; (2) the chair of the school
533 committee, or a designee; (3) the president of the local teacher's union, or a designee; (4) a selection of
534 administrators from the district, chosen by the commissioner from among volunteers from the district;
535 (5) a selection of teachers from the district, chosen by the local teacher's union; (6) a selection of parents
536 from the district chosen by the local parent organization; (7) representatives of applicable state and local
537 social service, health, and child welfare agencies chosen by the commissioner; and (8) as appropriate,
538 representatives of state and local workforce development agencies chosen by the commissioner. If the
539 district does not have a parent organization or if the organization does not select a parent, the
540 commissioner shall select a volunteer parent of a student from the district. The commissioner and
541 receiver shall convene the group within 30 days of the board designating a district as chronically
542 underperforming and the group shall make its recommendations to the commissioner and receiver within
543 45 days of its initial meetings. Meetings of the local stakeholder group shall be open to the public and
544 the recommendations submitted to the commissioner and receiver shall be publicly available
545 immediately upon their submission.

546 (c) In creating the innovation plan, the commissioner and receiver shall include measures
547 intended to maximize the rapid academic achievement of students in the district and shall, to the extent
548 practicable, base the plan on student outcome data, including, but not limited to: (1) data collected
549 pursuant to section 1I, or a school or district review performed under section 55A of chapter 15; (2)
550 student achievement on the Massachusetts Comprehensive Assessment System; (3) other measures of
551 student achievement, as appropriate; (4) student promotion and graduation rates; (5) achievement data
552 for different subgroups of students, including low-income students as defined in chapter 70, limited
553 English-proficient students and students receiving special education; and (6) student attendance and
554 dismissal rates. In creating the innovation plan required in subsection (b), the commissioner and receiver
555 shall include, after considering the recommendations of the local stakeholder group, the following: (1)
556 steps to address social service and health needs of students and their families in the district in order to

557 help students arrive and remain at school ready to learn; (2) steps to improve or expand child welfare
558 services and, as appropriate, law enforcement services in the school district community, in order to
559 promote a safe and secure learning environment; (3) as applicable, steps to improve workforce
560 development services provided to students and their families in the district in order to provide students
561 and families with meaningful employment skills and opportunities; (4) steps to address achievement
562 gaps for limited English-proficient, special education and low-income students, as applicable; and (5) a
563 budget for the district including any additional funds to be provided by the commonwealth, federal
564 government or other sources.

565 The secretaries of health and human services, public safety, labor and workforce development
566 and other applicable state and local social service, health and child welfare officials shall coordinate with
567 the secretary of education and the commissioner regarding the implementation of strategies pursuant to
568 clauses (1) to (3), inclusive, of this subsection that are included in an innovation plan and shall, subject
569 to appropriation, reasonably support the implementation consistent with the requirements of state and
570 federal law applicable to the relevant programs that each such official is responsible for administering.

571 In order to assess the district across multiple measures of district performance and student
572 success, the innovation plan shall include measurable annual goals including, but not limited to, the
573 following: (1) student attendance; (2) student safety and discipline; (3) student promotion and
574 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5)
575 progress in areas of academic underperformance; (6) progress among subgroups of students, including
576 low-income students as defined by chapter 70, limited English-proficient students and students receiving
577 special education; (7) reduction of achievement gaps among different groups of students; (8) student
578 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the
579 elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
580 academic success among students; (12) building a culture of student support and success among faculty

581 and staff; and (13) developmentally appropriate child assessments from pre-kindergarten through third
582 grade, if applicable.

583 (d) Notwithstanding any general or special law to the contrary, in creating the innovation plan
584 under subsection (b), the commissioner and the receiver may, after considering the recommendations of
585 the group of stakeholders: (1) expand, alter or replace the curriculum of the district or of a school in the
586 district, including the implementation of research-based early literacy programs and the teaching of
587 advanced placement courses, if the district or schools in the district do not already have such programs or
588 courses; (2) reallocate the uses of the existing budget of the district; (3) provide funds, subject to
589 appropriation, to increase the salary of an administrator or teacher in the district, in order to attract and
590 retain highly-qualified administrators or teachers or to reward administrators or teachers who work in
591 chronically underperforming districts that achieve the annual goals set forth in the innovation plan; (4)
592 expand the school day or school year of schools in the district; (5) limit, suspend or change 1 or more
593 provisions of any contract or collective bargaining agreement in the district, including the adoption of
594 model provisions identified by the commissioner from among existing contracts or collective bargaining
595 agreements in the commonwealth; provided, however, that the commissioner shall not reduce the
596 compensation of an administrator, teacher or staff member unless the hours of the person are
597 proportionately reduced; (6) add pre-kindergarten and full-day kindergarten classes, if the district does
598 not already have the classes; (7) require all district administrators, principals, school administrators,
599 teachers and staff to reapply for their positions within the district, with full discretion vested in the
600 commissioner and receiver regarding their consideration of and decisions on any rehiring based on the
601 reapplications; (8) limit, suspend or change 1 or more school district policies; (9) include a provision of
602 job-embedded professional development for teachers in the district, with an emphasis on strategies that
603 involve teacher input and feedback; (10) provide for increased opportunities for teacher planning time
604 and collaboration focused on improving student instruction; (11) establish a plan for professional
605 development for administrators in the district, with an emphasis on strategies that develop leadership

606 skills and use the principles of distributive leadership; (12) establish steps to assure a continuum of high
607 expertise teachers by aligning the following processes with the common core of professional knowledge
608 and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school
609 culture and organizational structure; (13) develop a strategy to search for and study best practices in
610 areas of demonstrated deficiency in the district; (14) establish strategies to address mobility and
611 transiency among the student population of the district; and (15) include additional components, at the
612 discretion of the commissioner and the receiver, based on the reasons the district was designated as
613 chronically underperforming and based on the recommendations of the local stakeholder group in
614 subsection (b).

615 For a district with limited English-proficient students, the professional development and
616 planning time for teachers and administrators identified in clauses (9) to (11), inclusive, shall include
617 specific strategies and content designed to maximize the rapid academic achievement of limited English-
618 proficient students in the district.

619 (e) The innovation plan shall be authorized for a period of not more than 3 years, subject to
620 subsection (g). The commissioner and receiver may jointly develop additional components of the plan
621 and shall jointly develop annual goals for each component of the plan. The receiver shall be responsible
622 for meeting the goals of the innovation plan.

623 (f) The commissioner and receiver shall provide a written report to the school committee on a
624 quarterly basis to provide specific information about the progress being made on the implementation of
625 the district's innovation plan. One of the quarterly reports shall be the annual evaluation required in
626 subsection (g).

627 (g) The commissioner shall evaluate the performance of the receiver on not less than an annual
628 basis. The purpose of such evaluation shall be to assess the implementation of the innovation plan and
629 determine whether the district has met the annual goals contained in the innovation plan. The evaluation

630 shall be in writing and submitted to the board and the local school committee no later than July 1 for the
631 preceding school year.

632 If the commissioner determines that the district has met the annual performance goals stated in
633 the innovation plan, the evaluation shall be considered sufficient and the implementation of the
634 innovation plan shall continue.

635 If the commissioner determines that the receiver has not met 1 or more goals in the plan and the
636 failure to meet the goals may be corrected through reasonable modification of the plan, the commissioner
637 may amend the innovation plan, as necessary. After assessing the implementation of the innovation plan
638 in the district, the commissioner may amend the plan if the commissioner determines that the
639 amendment is necessary in view of subsequent changes in the district that affect 1 or more components
640 of the plan, including, but not limited to, changes to contracts, collective bargaining agreements, or
641 school district policies. If the commissioner determines that the receiver has substantially failed to meet
642 multiple goals in the innovation plan, the commissioner may terminate such receiver; provided, however,
643 that the termination shall not occur before the completion of the first full school year of the receivership
644 of the district.

645 (h) After the period of receivership, there shall be a reevaluation of a district's status under this
646 section. The board of elementary and secondary education shall adopt regulations providing for: (1) the
647 removal of a designation of a district as chronically underperforming; and (2) the transfer of the
648 operation of a chronically underperforming district from an external receiver to the superintendent and
649 school committee, based on the improvement of the district. The regulations shall include provisions to
650 allow a district to retain measures adopted in an innovation plan if, in the judgment of the commissioner,
651 the measures would contribute to the continued improvement of the district. At any time after a
652 chronically underperforming district has been placed in receivership, the school committee of the district
653 may petition the commissioner for a determination as to whether the innovation plan adopted under

654 subsection (b) should be modified or eliminated and whether the school district shall no longer be
655 designated as chronically underperforming. The decision of the commissioner shall be based on
656 regulations adopted by the board. A school committee may seek review by the board of elementary and
657 secondary education of an adverse determination. The determination of the board shall be subject to
658 judicial review under section 14 of chapter 30A.

659 (i) If, on the basis of the regulations adopted by the board pursuant to subsection (h), a district
660 has not improved sufficiently to remove the designation of the district as chronically underperforming,
661 the commissioner may: (1) jointly determine subsequent annual goals for each component of the
662 innovation plan with the receiver and renew the innovation plan for an additional period of not more than
663 3 years; or (2) create a new innovation plan, consistent with the requirements of this section.

664 (j) If a municipality has failed to fulfill its fiscal responsibilities to education under chapter 70,
665 the commissioner shall declare the school district of the municipality or municipalities as applicable, as
666 chronically underperforming, subject to the approval of the board of elementary and secondary
667 education. The municipality's mayor or chairman of the board of selectmen shall have the opportunity
668 to present evidence to the board. A vote by the board that a school district is chronically
669 underperforming for fiscal reasons shall authorize the commissioner to petition the commissioner of
670 revenue to require an increase in funds for the school district, alleging that the amount necessary in the
671 municipality for the support of public schools has not been included in the annual budget appropriations.
672 The commissioner of revenue shall determine the amount of any deficiency pursuant to the sums
673 required under chapter 70, if any, and issue an order compelling the municipality to provide a sum of
674 money equal to the deficiency. If the municipality does not provide a sum of money equal to the
675 deficiency, the commissioner of revenue, in accordance with powers in section 23 of chapter 59, shall
676 not approve the tax rate of the community for the fiscal year until the deficiency is alleviated. Nothing in
677 this subsection shall be construed as creating a cause of action for educational malpractice by students or
678 their parents, guardians or persons acting as parents.

679 If the district is declared chronically underperforming under this subsection, this section shall
680 supersede subsections (m) to (x), inclusive of section 1J. .

681 SECTION 5: Subsection (b) of section 15 of chapter 70B as so appearing, is hereby amended by
682 adding the following paragraph:-

683 Before the sale or lease of an assisted structure or facility or a portion of that structure or facility,
684 the school district in control of the structure or facility shall submit to the authority a district-wide school
685 facility use plan that shall include, but not be limited to, a listing of all school facilities under the control
686 of the school district, a detailed description of both the current use and proposed use of each school
687 facility, the most recent enrollment data, by school facility, then available to the school district, a
688 detailed floor plan of each school facility that shows and labels each space in the facility and whether it
689 is used as a classroom or has some other use and any other information that may be required by the
690 authority to understand the district's school facility use plan. If the plan includes the closure, sale or
691 lease of a school facility or any part of a school facility, the authority may conduct, with the full
692 cooperation of the district, an analysis of district-wide enrollment capacity and future enrollment trends
693 for the district. If the capacity analysis and enrollment projection indicate an extended period of
694 significant excess capacity within the district's educational facilities, the district shall, prior to
695 consideration of any other disposition of the identified excess capacity, make a good faith offer to sell or
696 lease at fair market value the identified excess capacity to a commonwealth charter school established
697 pursuant to section 89 of chapter 71 or an applicant for a commonwealth charter school pursuant to said
698 section 89 of said chapter 71 that serves or is seeking to serve students who live in the school district.
699 The authority shall not recapture commonwealth and authority assistance for any such excess capacity
700 that is sold or leased to a commonwealth charter school or applicant for a commonwealth charter school.

701 SECTION 6. Chapter 71 is hereby amended by striking out section 89, as so appearing, and
702 inserting in place thereof the following section:-

703 Section 89. (a) Charter schools shall be established: (1) to stimulate the development of
704 innovative programs within public education; (2) to provide opportunities for innovative learning and
705 assessments; (3) to provide parents and students with greater options in choosing schools inside and
706 outside their school districts; (4) to provide teachers with a vehicle for establishing schools with
707 alternative and innovative methods of educational instruction and school structure and management; (5)
708 to encourage performance-based educational programs; (6) to hold teachers and school administrators
709 accountable for students' educational outcomes; and (7) to provide models for replication in other public
710 schools.

711 (b) A commonwealth charter school shall be a public school, operated under a charter granted by
712 the board of elementary and secondary education, which operates independently of a school committee
713 and is managed by a board of trustees. The board of trustees of a commonwealth charter school, upon
714 receiving a charter from the board of elementary and secondary education, shall be considered to be
715 public agents authorized to supervise and control the charter school. The board of elementary and
716 secondary education may grant a charter or amend an existing charter designating a commonwealth
717 charter school as a regional charter school if the school enrolls students from more than 1 district.

718 A Horace Mann charter school shall be a public school or part of a public school operated under
719 a charter approved by the school committee in the district in which the school is located; provided,
720 however, that the school committee shall consult with the local teacher's union before the approval; and
721 provided further, that all charters shall be granted by the board of elementary and secondary education. A
722 Horace Mann charter school shall have a memorandum of understanding with the school committee of
723 the district in which the charter school is located which, at a minimum, defines the services and facilities
724 to be provided by the district to the charter school and states the funding of the charter school by the
725 district. A Horace Mann charter school shall be operated and managed by a board of trustees
726 independent of the school committee which approved the school. The board of trustees may include a
727 member of the school committee.

728 (c) For the purposes of this section, the words “charter school” shall refer to both commonwealth
729 charter schools and Horace Mann charter schools unless specifically stated otherwise.

730 (d) The following shall be eligible to apply to establish a charter school: (1) parents; (2)
731 teachers; (3) parent-teacher organizations; (4) principals; (5) superintendents; (6) school committees; (7)
732 teacher unions; (8) colleges and universities; (9) non-profit community-based organizations; (10) non-
733 profit business or corporate entities; (11) non-profit charter school operators; (12) non-profit education
734 management organizations; (13) non-profit educational collaboratives; (14) consortia of these groups;
735 and (15) non-profit entities authorized by the commissioner. Private and parochial schools shall not be
736 eligible to establish a charter school. The commissioner shall provide technical assistance to public
737 school districts to assist in the development of proposals for Horace Mann charter schools.

738 (e) The board of elementary and secondary education shall establish the information needed in
739 an application for the approval of a charter school; provided, however, that the application shall include,
740 but not be limited to, a description of: (1) the mission, purpose, innovation and specialized focus of the
741 proposed charter school; (2) the innovative methods to be used in the charter school and how they differ
742 from the district or districts from which the charter school will enroll students; (3) whether the proposed
743 educational program or model was being successfully implemented in the school district or districts from
744 which the charter will enroll students; (4) the organization of the school in terms of ages of students or
745 grades to be taught along with an estimate of the total enrollment of the school and the district from
746 which the school may enroll students; (5) the method for admission to the charter school; (6) a student
747 recruitment and retention plan; (7) the educational program, instructional methodology and services to be
748 offered to students, including research on how the proposed program may improve the academic
749 performance of the subgroups listed in the recruitment and retention plan; (8) the school’s capacity to
750 address the particular needs of limited English-proficient students, if applicable, to learn English and
751 learn content matter, including the employment of staff that meets the criteria established by the
752 department; (9) how the school shall involve parents as partners in the education of their children; (10)

753 the school governance and bylaws; (11) a proposed or signed arrangements or contracts with an
754 organization that would manage or operate the school, including any proposed or agreed upon payments
755 to the organization; (12) the financial plan for the operation of the school; (13) the provision of school
756 facilities and pupil transportation; (14) the number and qualifications of teachers and administrators to be
757 employed; (15) procedures for evaluation and professional development for teachers and administrators;
758 and (16) a statement of equal educational opportunity which shall state that the charter school shall be
759 open to all students, on a space available basis, and shall not discriminate on the basis of race, color,
760 national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry,
761 athletic performance, special need, proficiency in the English language or academic achievement; In the
762 case of a Horace Mann charter school, the application shall include a draft memorandum of
763 understanding, as described in subsection (b).

764 (f) The student recruitment and retention plan of clause (6) of subsection (e) shall include, but
765 not be limited to, a detailed description of deliberate, specific strategies the charter school shall use to
766 attract, enroll and retain a student population that, when compared to students in similar grades in
767 schools from which the charter school shall enroll students, contains a comparable or greater percentage
768 of students from 3 or more of the following categories: students eligible for free lunch as defined in
769 section 2 of chapter 70; students eligible for reduced price lunch as defined in said section 2 of said
770 chapter 70; special education students; limited English-proficient students of similar language
771 proficiency level as measured by the Massachusetts English Proficiency Assessment examination; sub-
772 proficient students, which shall mean students who have scored in the needs improvement, warning or
773 failing categories on the mathematics or English language arts exams of the Massachusetts
774 Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a
775 similar measurement; students who are determined to be at risk of dropping out of school based on
776 predictors determined by the department; students who have dropped out of school; or other at-risk
777 students who should be targeted in order to eliminate achievement gaps among different groups of

778 students as enumerated above. If the charter school is in a district with 10 per cent or more of limited
779 English-proficient students, the recruitment strategies shall include a variety of outreach efforts in the
780 most prevalent languages of the district. The student recruitment and retention plan shall include, but not
781 be limited to, a detailed description of deliberate, specific strategies the school shall use to maximize the
782 number of students who successfully complete all school requirements, prevent students from dropping
783 out and minimize the number of students in the categories enumerated in this subsection from returning
784 to district schools. The student recruitment and retention plan shall include annual goals for: (1)
785 recruitment activities; (2) the number of students in the categories of students identified in the plan who
786 seek to enroll in the school; (3), student retention activities; and (4) student retention. The recruitment
787 and retention plan shall be updated annually to account for changes in both district and charter school
788 enrollment.

789 (g) In order to ensure that commonwealth charter schools authorized under this section are able
790 to recruit and serve the categories of students enumerated in subsection (f), the school district or districts
791 from which the commonwealth charter school may enroll students shall annually provide to a third party
792 mail house authorized by the department the addresses for all students in the district eligible to enroll in
793 the school; provided, however, that the information shall not be provided if a student's parent or
794 guardian requests that the district withhold this information. Each commonwealth charter school
795 authorized under this section shall annually supply a mailing in the most prevalent languages of the
796 district the charter school is authorized to serve to the third party mail house and pay for it to be copied
797 and mailed to eligible students.

798 At the request of a school district from which a commonwealth charter school enrolls students,
799 the charter school shall provide to a third party mail house the addresses for all students currently
800 enrolled in the commonwealth charter school from the district; provided, however, that the information
801 shall not be provided if a student's parent or guardian requests that the school withhold the information.

802 Each district shall be permitted to supply a mailing to the third party mail house and pay for it to be
803 copied and mailed to families of students from said district enrolled in the commonwealth charter school.

804 (h) An application submitted for the establishment of a commonwealth charter school shall be:
805 (1) submitted to the board of elementary and secondary education for approval pursuant to this section;
806 and (2) filed with the local school committee for each school district from which the charter school may
807 enroll students. Before final approval to establish a commonwealth charter school, the board of
808 elementary and secondary education shall hold a public hearing on the application in the school district
809 in which the proposed charter school is to be located. If the school is a regional commonwealth charter
810 school, the public hearing shall be held in a location within the region. At least 1 member of the board
811 shall attend each public hearing soliciting comment on a pending application and shall report to the
812 board on the hearing. Before final approval to establish a commonwealth charter school, the board of
813 elementary and secondary education shall solicit and review comments on the application from the local
814 school committee for each school district from which the charter school may enroll students. A
815 department report regarding the application shall be made available to the commonwealth charter school
816 applicant and affected districts within 10 days of the completion of the report.

817 (i) In a fiscal year, a public school district's total charter school tuition payment to
818 commonwealth charter schools shall not exceed 9 per cent of the district's net school spending;
819 provided, however, that a public school district's total charter tuition payment to commonwealth charter
820 schools shall not exceed 18 per cent of the district's net school spending if the board determines the
821 combined Composite Performance Index scores on the English language arts and mathematics
822 Massachusetts Comprehensive Assessment System exams for a school district place the district in the
823 lowest 10 percent of all statewide MCAS test performance scores released in the 2 consecutive school
824 years before the date the charter school application is submitted.

825 If the department is no longer using the combined composite performance index as a measure of
826 school and district performance, then the department shall use the subsequently developed measure to
827 determine the lowest 10 per cent of districts.

828 The commonwealth shall incur charter school tuition payments for siblings attending
829 commonwealth charter schools to the extent that their attendance would otherwise cause the school
830 district's charter school tuition payments to exceed 9 per cent of the school district's net school spending
831 or 18 per cent in the case of the lowest performing 10 per cent of school districts. If a district is no
832 longer in the lowest 10 per cent, the net school spending cap shall be 9 per cent, unless the district net
833 school spending was above 9 per cent in the year before moving out of the lowest 10 per cent in which
834 case the net school spending cap shall remain at the higher level plus enrollment already approved by the
835 board. If a district is again ranked in the lowest 10 per cent based on 2 consecutive years of
836 performance, the net school spending cap shall increase pursuant to this section.

837 As early as possible in the application process and not later than October 15, the board shall
838 determine and make available to the public a list of the school districts in the lowest 10 per cent and shall
839 provide information about net school spending in each such district. Applications to establish a charter
840 school shall be submitted to the board annually by November 15. The board shall review the applications
841 and grant new charters in February of the following year. At least 3 of the new commonwealth charters
842 approved by the board in any year shall be granted for commonwealth charter schools located in districts
843 where overall student performance on the statewide assessment system approved by the board of
844 elementary and secondary education pursuant to section 1I of chapter 69 is in the lowest 10 per cent
845 statewide in the 2 years preceding the charter application. In any year, the board shall approve only 1
846 regional charter school application of a commonwealth charter school located in a school district where
847 overall student performance on the statewide assessment system is in the top 10 per cent in the year
848 preceding charter application.

849 For districts scoring in the lowest 10 per cent for the previous 2 years as measured by the
850 combined Composite Performance Index scores on the English language arts and mathematics
851 Massachusetts Comprehensive Assessment System exams, the board may only approve an application
852 for the establishment of a commonwealth charter school under this subsection for eligible applicants. In
853 order to be eligible to apply to operate a commonwealth charter school serving students in districts
854 scoring in the lowest 10 per cent, an applicant or a provider with which an applicant proposes to contract,
855 must have a record of operating at least 1 school or similar program that demonstrates academic success
856 and organizational viability and serves student populations similar to those the proposed school seeks to
857 serve, from among the categories defined in subsection (f).

858 For districts not scoring in the lowest 10 per cent for the previous 2 years as measured by the
859 combined Composite Performance Index scores on the English language arts and mathematics
860 Massachusetts Comprehensive Assessment System exams, preference shall be given to applicants who
861 have a record of operating at least 1 school or similar program that demonstrates academic success and
862 organizational viability and serves student populations similar to those the proposed school seeks to
863 serve, from among the categories defined in subsection (f).

864 (j) The board of elementary and secondary education shall make the final determination on
865 granting charter school status and may condition charters on the applicant's taking certain actions or
866 maintaining certain conditions.

867 In reviewing applications, the board shall consider whether the school committee where the
868 charter school is to be located has been asked to implement the educational program being proposed by
869 the applicant and has declined to do so.

870 No board member shall vote on a charter application if that member serves on a charter school
871 board or is an employee of a charter school.

872 (k) The board of elementary and secondary education may authorize a single board of trustees to
873 manage more than 1 charter school authorized under this section; provided, however, that each school
874 holds its own charter. In addition to those listed in subsection (d), the board of elementary and
875 secondary education shall accept applications from existing charter school boards of trustees.

876 Each applicant shall submit an application for each charter school it proposes; provided,
877 however that applicants proposing to create more than 1 charter school in more than 1 geographically
878 proximate district may submit 1 application for such schools.

879 The board of elementary and secondary education shall give preference to applications from
880 providers building networks of schools in more than 1 municipality.

881 The board shall not approve a new commonwealth charter school in a community with a
882 population of less than 30,000, as determined by the most recent United States census, unless it is a
883 regional charter school.

884 If a final application is fundamentally flawed, the department may provide feedback to the
885 applicant and invite it to submit a stronger application in the future. Once a final application has been
886 filed, only minor, non-substantive amendments shall be allowed. The department shall maintain a
887 written record of interviews it conducts with final charter applicants and include that record with the
888 final application materials that are provided to the board, local school officials and the public.

889 If a charter school has not obtained intent to register forms of at least 75 per cent of its projected
890 first year enrollment from parents or guardians of students living in the sending district by May 1 of the
891 school year before the school's opening, the opening of the charter school shall be delayed for 1 year. If
892 the school has not achieved the 75 per cent by the following May 1, the board shall revoke the school's
893 charter.

894 (l) A charter school established under a charter granted by the board shall be a body politic and
895 corporate with all powers necessary or desirable for carrying out its charter program, including, but not
896 limited to, the following:(1) to adopt a name and corporate seal; provided, however, that the name
897 selected must include the words charter school; (2) to sue and be sued, but only to same extent and upon
898 the same conditions that a municipality can be sued; (3) to acquire real property, from public or private
899 sources, by lease, lease with an option to purchase or by gift, for use as a school facility; provided,
900 however, in the case of a Horace Mann charter school, the approval of the local school committee shall
901 be obtained before acquisition of such real property owned or controlled by the body; (4) to receive and
902 disburse funds for school purposes; (5) to make contracts and leases for the procurement of services,
903 equipment and supplies; provided, however, that if the charter school intends to procure substantially all
904 educational services under contract with another person, the terms of the a contract must be approved by
905 the board either as part of the original charter or by way of an amendment thereto; and provided further,
906 that the board shall not approve contract terms whose purpose or effect are to avoid the prohibitions of
907 this section against the charter school status for private and parochial schools or a for-profit entity
908 operating a charter school;(6) to incur temporary debt in anticipation of receipt of funds; provided,
909 however, that a Horace Mann school shall obtain the approval of the local school committee and
910 appropriate local appropriating authorities and officials relative to a proposed lien or encumbrance upon
911 public school property or relative to a financial obligation for which the local school district shall
912 become legally obligated; and provided further, that notwithstanding any law to the contrary, the terms
913 of repayment of a charter school's debt shall not exceed the duration of the school's charter without the
914 approval of the board; (7) to solicit and accept any grants or gifts for school purposes; and (8) to have
915 such other powers available to a business corporation formed under chapter 156B that are not
916 inconsistent with this chapter.

917 (m) Charter schools shall not charge a public school for the use or replication of any part of their
918 curriculum subject to the prescriptions of a contract between the charter schools and a third party
919 provider.

920 (n) Charter schools shall be open to all students, on a space available basis, and shall not
921 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental
922 or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English
923 language or a foreign language and academic achievement. Charter schools may limit enrollment to
924 specific grade levels and may structure curriculum around particular areas of focus such as mathematics,
925 science or the arts. There shall be no application fee for admission to a charter school. A charter school
926 shall not charge tuition or a fee related to required educational programs.

927 A commonwealth charter school shall only enroll students from the district identified in its
928 charter. If a commonwealth charter school wants to enroll students from other districts or move the
929 school to a district not identified in its charter, it must seek an amendment to its charter from the board.
930 Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled
931 in the school on the date that the application is filed with the board of elementary and secondary and to
932 their siblings if the school is a conversion of an existing school, second to other students actually
933 enrolled in the public schools of the district where the Horace Mann charter school is to be located and
934 third, to other resident students.

935 (o) A charter school may not administer tests to potential applicants or predicate enrollment on
936 results from a test of ability or achievement, unless the school is a performing, visual or graphics arts
937 school, which may hold auditions for applicants. Requirements for enrollment in a charter school,
938 including, but not limited to, attendance at informational meetings and interviews, a parent's
939 commitment to volunteer at the school or a parent's agreement to sign a contract or other form of written
940 agreement with the school, shall not be designed, intended or used to discriminate against a student or to

941 deny a student enrollment in a charter school. If the total number of students who are eligible to attend
942 and apply to a charter school and who reside in a district from which the charter school is permitted to
943 enroll students, or are siblings of students already attending said charter school, is greater than the
944 number of spaces available, an admissions lottery, including all eligible students applying, shall be held
945 to fill all of the spaces in that school from among the students. The names of students who entered the
946 lottery but did not gain admission shall be maintained on a waitlist, which shall be forwarded to the
947 department not later than June 1 in the year in which the lottery is held. In addition to the names of
948 students, the school shall supply to the department each student's home address, telephone number,
949 grade level, and other information the department deems necessary. The department shall maintain a
950 consolidated waitlist for each municipality in order to determine the number of individual students in
951 each municipality seeking admission to a charter school.

952 (p) Each charter school shall annually, not later than April 1, notify each public school district in
953 writing of the number and grade levels of students who shall be attending the charter school from that
954 district the following September as well as the number of new students who will be transferring from
955 that district to the charter school in the following September.

956 (q) A student may withdraw from a charter school at any time and enroll in another public
957 school where the student resides. When a student stops attending a charter school for any reason, the
958 charter school shall fill the vacancy with the next available student on the waitlist for the grade in which
959 the vacancy occurs and shall continue through the waitlist until a student fills the vacant seat. If there is
960 no waitlist, a charter school shall publicize an open seat to the students of the sending district and make
961 attempts to fill the vacant seat. Charter schools shall attempt to fill vacant seats up to February 15,
962 excluding seats that open in grade 12. Charter schools may fill vacant seats after February 15. If a
963 vacancy occurs after February 15, the vacancy shall remain with the grade cohort and shall be filled in
964 the following September if it has not previously been filled. A vacancy occurring after February 15 shall
965 not be filled by adding a student to a lower grade level. Within 30 days of a vacancy being filled, the

966 charter school shall send the name of the student filling the vacancy to the department for the purpose of
967 the department updating its waitlist. This subsection is subject to rules and regulations promulgated by
968 the department.

969 A student may be expelled from a charter school based on criteria determined by the board of
970 trustees and approved by the board of elementary and secondary education, with the advice of the
971 principal and teachers; provided, however, that charter school policies shall be consistent with sections
972 37H and 37H½.

973 (r) A charter school may be located in part of an existing public school building, in space
974 provided on a private work site, in a public building or any other suitable location. A charter school may
975 own, lease or rent its space. Notwithstanding this section, no school building assistance funds shall be
976 awarded to a commonwealth charter school for the purpose of constructing, reconstructing or improving
977 the school.

978 After an applicant has filed a charter school application, the applicant may request a facilities
979 assessment from the Massachusetts School Building Authority. A charter school may request an
980 assessment at any time. The authority, at the request of a charter school or applicant for a charter school,
981 may conduct an assessment of a facility intended for use or used as a school building. The facilities
982 assessment shall be conducted by the authority in a format and manner prescribed by the authority and
983 the charter school shall pay for the cost of conducting the facilities assessment. The charter school shall
984 provide complete access to its school facilities for the purpose of the authority conducting a facilities
985 assessment. The facilities assessment shall include an assessment of the charter school's maintenance
986 process and a review of the maintenance practices and procedures in place at the school. The
987 maintenance review shall be conducted in a format and manner prescribed by the authority.

988 The authority shall bear no responsibility for a decision not to undertake a facilities assessment
989 or the results of a facilities assessment undertaken. If the authority decides to conduct a facilities

990 assessment, the conducting of the assessment shall in no way be construed, interpreted or deemed to
991 imply responsibility on the part of the authority for the results of the assessment, nor shall the authority
992 assume any duty or responsibility with respect to the maintenance, renovation, repair or construction of a
993 school facility that may be assessed.

994 Upon receiving an application for a charter school, the department shall notify the authority that
995 an application has been filed and shall identify the district from which the school intends to enroll
996 students. At such time, the charter school applicant may contact the authority to ask if the authority is
997 aware of surplus facilities or excess school building capacity in the relevant district. The authority, if
998 contacted by the applicant, shall share any information it has regarding the availability of surplus
999 facilities or excess capacity in that school district.

1000 (s) The school committee of each district where a Horace Mann charter school is located shall
1001 develop a plan to disseminate innovative practices of the charter school to other public schools within
1002 the district subject to the provisions of any contract between the Horace Mann charter school and a third
1003 party provider.

1004 The commissioner of elementary and secondary education shall facilitate the dissemination of
1005 successful innovative programs of charter schools and provide technical assistance for school districts to
1006 replicate the programs. Each charter school and sending districts shall be required to demonstrate a good
1007 faith effort to collaborate on the sharing of innovative practices.

1008 (t) The department of elementary and secondary education may annually send evaluation teams
1009 to visit each charter school to corroborate and augment the information provided in the annual report in
1010 accordance with guidelines issued by the department. Site visit teams may also gather other evidence
1011 relevant to the school's performance, student academic achievement and adherence to recruitment and
1012 retention plans. The written reports from these site visits shall become part of the charter school's
1013 record. A charter school may add to the record a written response to the report.

1014 (u) A charter school shall operate in accordance with its charter and the law regulating other
1015 public schools; provided, however, that the sections 41 and 42 shall not apply to employees of
1016 commonwealth charter schools. Charter schools shall comply with chapters 71A and 71B; provided,
1017 however, that the fiscal responsibility of a special needs student currently enrolled in or determined to
1018 require a private day or residential school shall remain with the school district where the student resides.
1019 If a charter school expects that a special needs student currently enrolled in the charter school may be in
1020 need of the services of a private day or residential school, it shall convene an individual education plan
1021 team meeting for the student. Notice of the team meeting shall be provided to the special education
1022 department of the school district in which the child resides at least 5 days in advance. Personnel from the
1023 school district in which the child resides shall be allowed to participate in the team meeting concerning
1024 future placement of the child.

1025 (v) A Horace Mann charter school shall be exempt from local collective bargaining agreements
1026 to the extent provided by the terms of its charter; provided, however, that employees of the Horace Mann
1027 charter school shall continue to be members of the local collective bargaining unit and shall accrue
1028 seniority and shall receive, at a minimum, the salary and benefits established in the contract of the local
1029 collective bargaining unit where the Horace Mann charter school is located. Employees of Horace Mann
1030 charter schools shall be exempt from all union and school committee work rules to the extent provided
1031 by the school's charter. Employees in Horace Mann charter schools shall be required to work the full
1032 work day and work year to the extent provided by the terms of the school's charter.

1033 (w) Notwithstanding this section or any other general or special law to the contrary, for the
1034 purposes of chapter 268A: (1) a charter school shall be deemed to be a state agency; and (2) the
1035 appointing official of a member of the board of trustees of a charter school shall be deemed to be the
1036 commissioner of education. Members of boards of trustees of charter schools operating under this
1037 section shall file a disclosure annually with the state ethics commission, the department of secondary and
1038 elementary education and the city or town clerk where the charter school is located. The disclosure is in

1039 addition to the requirements of said chapter 268A and a member of a board of trustees shall also comply
1040 with the disclosure and other requirements of said chapter 268A. The form of the disclosure shall be
1041 prescribed by the ethics commission and shall be signed under penalty of perjury. The form shall be
1042 limited to a statement in which members of the board of trustees shall disclose any financial interest that
1043 they or a member of their immediate families, as defined in section 1 of said chapter 268A, have in a
1044 charter school located in the commonwealth or in any other state or with a person doing business with a
1045 charter school.

1046 Each member of a board of trustees of a charter school shall file the disclosure for the preceding
1047 calendar year with the commission within 30 days after becoming a member of the board of trustees, by
1048 September 1 of each year thereafter that the person is a member of the board and by September 1 of the
1049 year after the person ceases to be a member of the board; provided, however, that no member of a board
1050 of trustees shall be required to file such disclosure for the year in which the member ceases to be a
1051 member of the board if the member served less than 30 days in that year.

1052 (x) Students in charter schools shall be required to meet the same performance standards, testing
1053 and portfolio requirements set by the board of elementary and secondary education for students in other
1054 public schools.

1055 (y) The board of trustees, in consultation with the teachers, shall determine the school's
1056 curriculum and develop the school's annual budget. The board of trustees of a Horace Mann charter
1057 school shall annually submit to the superintendent and school committee of the district in which the
1058 school is located a budget request for the following fiscal year. The school committee shall act on the
1059 budget request in conjunction with its actions on the district's overall budget. Each Horace Mann charter
1060 school shall receive in response to the budget request not less than it would have under the district's
1061 budgetary allocation rules. The board of trustees may appeal a disproportionate budgetary allocation to

1062 the commissioner, who shall determine an equitable funding level for the school and shall require the
1063 school committee to provide the funding.

1064 Following the appropriation of the district's operating budget for the fiscal year, the amount
1065 approved by the local appropriating authority for the operation of a Horace Mann charter school shall be
1066 available for expenditure by the board of trustees of the school for any lawful purpose without further
1067 approval by the superintendent or the school committee. A Horace Mann charter school shall not expend
1068 or incur obligations in excess of its budget request; provided, however, that a Horace Mann charter
1069 school may spend federal and state grants and other funds received independent of the school district not
1070 accounted for in the charter school's budget request without prior approval from the superintendent or
1071 the school committee.

1072 (z) Upon approval of a Horace Mann charter school by the board of elementary and secondary
1073 education, the superintendent of the school district where the Horace Mann charter school is to be
1074 located shall reassign, to the extent provided by the terms of its charter, any faculty member who wishes
1075 to be reassigned to another school located within the district.

1076 (aa) Employees of charter schools shall be considered public employees for purposes of tort
1077 liability under chapter 258 and for collective bargaining purposes under chapter 150E. The board of
1078 trustees shall be considered the public employer for purposes of tort liability under said chapter 258 and
1079 for collective bargaining purposes under said chapter 150E; provided, however, that in the case of a
1080 Horace Mann charter school, the school committee of the school district in which the Horace Mann
1081 charter school is located shall remain the employer for collective bargaining purposes under said chapter
1082 150E. Teachers employed by a charter school shall be subject to the state teacher retirement system
1083 under chapter 32 and service in a charter school shall be creditable service within the meaning thereof.

1084 A charter school shall recognize an employee organization designated by the authorization cards
1085 of 60 per cent of its employees in the appropriate bargaining unit as the exclusive representative of all
1086 the employees in the unit for the purpose of collective bargaining.

1087 (bb) Each local school district shall be required to grant a leave of absence to a teacher in the
1088 public schools system requesting leave in order to teach in a commonwealth charter school. A teacher
1089 may request a leave of absence for up to 2 years.

1090 At the end of the second year the teacher may either return to their former teaching position or, if
1091 they choose to continue teaching at the commonwealth charter school, resign from their school district
1092 position.

1093 (cc) Notwithstanding section 59C, the internal form of governance of a charter school shall be
1094 determined by the school's charter.

1095 (dd) A charter school shall comply with all applicable state and federal health and safety laws
1096 and regulations.

1097 (ee) The students who reside in the school district in which the charter school is located shall be
1098 provided transportation to the charter school by the resident district's school committee on similar terms
1099 and conditions as transportation is provided to students attending local district schools, if such
1100 transportation is requested by the charter school. In providing the transportation, the school committee
1101 shall accommodate the particular school day and school year of the charter school; provided, however,
1102 that in the event that a school committee limits transportation for district school students, the school
1103 district shall not be required to provide transportation to a commonwealth charter school beyond those
1104 limitations. A charter school and the sending district shall meet to plan bus routes and charter school
1105 starting and ending times in order to assist the district with cost effective means of transportation.
1106 Schools operating pursuant to a charter granted after January 1, 1997, and all charter schools during

1107 fiscal year 1999 and thereafter, shall not receive funds for transportation above the amount actually
1108 required by the charter school for the transportation services to eligible students. If the sending district
1109 provides an alternative method of transportation for students enrolled in the sending district's public
1110 schools, it shall not be assessed for transportation costs which exceed the per pupil cost of the
1111 alternative. Costs for transportation shall be included only if transportation is provided for students in the
1112 same program and grade level as those in the charter school. Students who do not reside in the district in
1113 which the charter school is located shall be eligible for transportation in accordance with section 12B of
1114 chapter 76. A regional charter school as designated by the board of elementary and secondary education
1115 whose charter provides for transportation of all students from charter municipalities shall also be
1116 reimbursed under section 16C of chapter 71 for transportation provided to pupils residing outside the
1117 municipality where the charter school is located; provided, however, that no reimbursement for
1118 transportation between the charter school and a student's home shall be made if a pupil resides less than
1119 1 1/2 miles from the charter school, measured by a commonly traveled route. If a charter school
1120 provides its own transportation, the school shall coordinate and collaborate with the sending district to
1121 provide cost effective means of transportation. All transportation shall be determined in advance of the
1122 approval of the district's final budget for a fiscal year.

1123 (ff) If a charter school plans to make a major change in its operations, the school's board of trustees
1124 shall submit in writing to the board of elementary and secondary education a request to amend its charter.
1125 Major changes are defined as those that fundamentally affect a school's mission, organizational structure or
1126 educational program, as further defined by regulation.

1127 If a charter school plans to make a minor change in its operations, the school's board of trustees shall
1128 submit in writing to the commissioner of elementary and secondary education a request to amend its charter.
1129 Minor changes are defined as changes that do not fundamentally alter a school's organizational structure or
1130 educational program, as further defined by regulation.

1131 The board or the commissioner, as applicable, shall approve or deny amendment requests within
1132 90 days after receiving complete requests. A request for a change to a Horace Mann charter school's
1133 charter also requires the approval of the local school committee.

1134 If a commonwealth charter school seeks an amendment to change its maximum enrollment,
1135 including grades served, the municipality of its location or the districts specified in its charter, the
1136 department shall provide a copy of the request to the superintendents of the affected districts and provide
1137 them notice of their right to submit written comment to the commissioner within 30 days.

1138 If the commissioner denies an amendment request, the charter school's board of trustees may seek
1139 review of the commissioner's decision by the board.

1140 (gg) The initial charter granted by the board of elementary and secondary education shall be for
1141 5 years. The board may renew a charter for up to 5 years. At the time of the second renewal or
1142 subsequent renewals, a charter school may apply for and receive an extension of the charter for up to 10
1143 years.

1144 The board of elementary and secondary education shall develop procedures and guidelines for
1145 revocation and renewal of a school's charter; provided, however, that a charter for a Horace Mann
1146 charter school shall not be renewed by the board without a vote of support from the school committee in
1147 the district where the charter school is located; provided, however, that a commonwealth charter shall
1148 not be renewed unless the board of trustees of the charter school has documented in a manner approved
1149 by the board of elementary and secondary education that the commonwealth charter school has provided
1150 models for replication and best practices to the commissioner and to other public schools in the district
1151 where the charter school is located.

1152 When deciding on charter renewal, the board shall consider the extent to which the school has
1153 followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and

1154 retaining the categories of students enumerated in subsection (f) and the extent to which the school has
1155 followed and enhanced its plan as necessary. The board may impose conditions or financial sanctions on
1156 the charter school upon renewal if sufficient progress towards recruitment and retention goals has not
1157 been made. When deciding on charter renewal, the board shall take into account the annual attrition of
1158 students, teachers and administrators. The board shall also consider innovations that have been
1159 successfully implemented by the charter school and the evidence that supports the effectiveness of those
1160 practices. The board shall also consider progress made in student academic achievement. Upon renewal
1161 of its charter, a school shall update and enhance its recruitment and retention plan as necessary to
1162 account for changes in enrollment.

1163 The board may revoke a school's charter if the school has not fulfilled a conditions imposed by
1164 the board in connection with the grant of the charter or the school has violated a provision of its charter.

1165 The board may place a charter school on a probationary status to allow the implementation of a
1166 remedial plan after which, if the plan is unsuccessful, the charter may be summarily revoked.

1167 If the board revokes a charter or if a charter school ceases to exist for any reason, the charter
1168 school shall, within 6 months of the revocation of the charter or closure of the school, submit to the
1169 board a detailed financial accounting of all the school's assets, including all real property, vehicles,
1170 equipment and supplies. Upon the revocation, non-renewal or voluntary return of a commonwealth
1171 charter, title to all of the property of the charter school shall immediately vest in the commonwealth,
1172 subject to the rights of a secured party holding a perfected security interest in the property of the charter
1173 school. Funds remaining after the satisfaction of the charter school's obligations shall be returned to
1174 sending districts in proportion to each district's average enrollment during the previous 5 years.

1175 (hh) Commonwealth charter schools shall be funded under this subsection. The
1176 commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the

1177 tuition amounts calculated separately for each district sending students to the charter school.
1178 Tuition amounts for each sending district shall be calculated by the department using the
1179 formula set forth herein, to reflect, as much as practicable, the actual per pupil spending amount
1180 that would be expended in the district if the students attended the district schools. The tuition
1181 amount shall be calculated separately for each district sending students to a charter school and
1182 for each charter school to which a district sends students. Each district's per pupil tuition
1183 amount for each charter school to which it sends students shall include a per pupil foundation
1184 budget component, adjusted to reflect the actual net school spending in the sending district.

1185 In calculating the per pupil foundation budget component, the department shall calculate
1186 a foundation budget for the students from each sending district attending the charter school in
1187 the previous fiscal year, under section 2 of chapter 70; provided, however, that the department
1188 shall not include in the calculation the assumed tuitioned-out special education enrollment nor
1189 any amounts generated by the assumed enrollment, as defined by said section 2 of said chapter
1190 70. The per pupil foundation budget component for the charter school shall be the district's
1191 foundation budget, as so calculated, divided by the number of students attending the charter
1192 school from the sending district in the previous fiscal year. The per pupil foundation budget
1193 component shall be calculated separately for each charter school to which a district sends
1194 students. The foundation budget for a charter school shall be the sum of the foundation budgets
1195 for the charter school for each district sending students to the charter school.

1196 In adjusting the per pupil foundation budget component, the department shall calculate
1197 for each sending district an above foundation spending percentage, which shall be the
1198 percentage by which the district's actual net school spending exceeds the foundation budget for

1199 the district, as calculated under chapter 70. The department shall further calculate the percentage
1200 of actual net school spending reported by the sending district associated with tuition costs for
1201 tuitioned-out special education students, including education that occurs in educational
1202 collaboratives, and with spending on health care costs for retired employees for any district for
1203 which the costs are included in net school spending, and shall reduce the district's above
1204 foundation spending percentage proportionately. The per pupil foundation budget component
1205 for each charter school to which the sending district sends students shall be increased by the
1206 adjusted above foundation spending percentage. In a fiscal year in which a school district's
1207 chapter 70 aid is reduced during the course of the fiscal year, under authorization by the
1208 legislature under sections 9B and 9C of chapter 29 and the reduction lowers the above
1209 foundation percentage, the department shall adjust the total tuition amount proportionately, in a
1210 manner consistent with the provisions of this section, and shall notify the affected sending
1211 district and charter school of any reductions.

1212 The total tuition amount owed to a charter school shall be the per pupil tuition amount as
1213 defined above, multiplied by the total number of students attending the charter school from that
1214 district in the current fiscal year. The amount shall be composed of district sponsored tuition
1215 and state sponsored tuition. District sponsored tuition shall be the total tuition amount owed to
1216 the charter school on behalf of district students for the previous fiscal year. State sponsored
1217 tuition shall be the positive difference, if any, between the total tuition amount for the current
1218 fiscal year and the district sponsored tuition amount.

1219 The sending district's total charter school tuition amount for purposes of this section
1220 shall be the sum of the district-sponsored tuition amounts for each charter school to which the
1221 district sends students, calculated using the provisions of this section. The state sponsored

1222 tuition amount shall be distributed by the commonwealth to the charter school. The receiving
1223 charter school's total charter school tuition amount shall be the sum of the tuition amounts
1224 calculated for the charter school for each district sending students to the charter school.

1225 The state treasurer shall deduct a sending district's total charter school tuition amount, as
1226 calculated herein, from the total state school aid, as defined in said section 2 of said chapter 70,
1227 of the district in which the student resides before the distribution of the aid. If a child resides in
1228 a municipality which belongs to a regional school district, the sending district's total charter
1229 school tuition amount shall be deducted from said chapter 70 education aid of the school district
1230 appropriate to the grade level of the child. If, in a single district, the total of all the deductions
1231 exceeds the total of the education aid, this excess amount shall be deducted from other aid
1232 appropriated to the city or town. If, in a single district, the total of all the deductions exceeds the
1233 total state aid appropriated, the commonwealth shall appropriate this excess amount; provided,
1234 however, that if the district has exempted itself from the provisions of said chapter 70 by
1235 accepting section 14 of said chapter 70, the commonwealth shall assess said district for the
1236 excess amount.

1237 The state treasurer shall disburse to the charter school an amount equal to the charter
1238 school's total charter school tuition amount.

1239 If more than 1 charter school is managed by a single network or board of trustees
1240 funding shall not be transferred among individual schools within the network unless the schools
1241 are located in the same school district.

1242 The department shall, subject to appropriation, provide funding to charter schools for a
1243 portion of the per pupil capital needs component included in the charter tuition amount for the
1244 purpose of construction, renovation, purchase, acquisition or improvement of school buildings
1245 and land. In fiscal year 2011 and thereafter, the funding shall be the per pupil amount provided
1246 in fiscal year 2010, adjusted by the foundation inflation index, as defined in section 2 of said
1247 chapter 70.

1248 (ii) In a year during which a sending district's total district-sponsored charter school
1249 tuition amount is greater than the sending district's total district-sponsored charter school tuition
1250 amount for the previous year, the sending district shall be reimbursed by the commonwealth in
1251 accordance with this paragraph and subject to appropriation; provided, however, that no funds
1252 for the reimbursements shall be deducted from funds distributed under chapter 70. The
1253 reimbursement amount shall be equal to 25 per cent of the increase in the year in which the
1254 increase occurs, and 25 per cent in the second, third, fourth, and fifth years following.

1255 Subject to appropriation, these reimbursements, in addition to the state-sponsored tuition
1256 amounts and the facilities fee, shall be paid from a single line item and any reductions to the
1257 item shall be made proportionately across all 7 categories of spending; provided, however, that
1258 the reimbursements required by this subsection shall be paid to the sending district and the state-
1259 sponsored reimbursement amount and the facilities fee shall be paid directly to the charter
1260 school by the commonwealth.

1261 (jj) If the unencumbered amount of cumulative surplus revenue from tuition held by a charter
1262 school at the end of a fiscal year, less: (1) the amount of the fourth quarter tuition payment, (2) the
1263 amount held in reserve for the purchase or renovation under a capital plan for academic facilities, and (3)

1264 any reserve funds held as security for bank loans, exceeds 20 per cent of its operating budget and its
1265 budgeted capital costs for the succeeding fiscal year, the amount in excess of the 20 per cent shall be
1266 returned by the charter school to the sending district and the state in proportion to their share of tuition
1267 paid during the fiscal year. At the end of each fiscal year, the commissioner shall certify the amounts
1268 described above and the amount, if any, by which it exceeds 20 per cent of the school's operating budget
1269 and its budgeted capital costs for the succeeding fiscal year and shall report annually the amount to the
1270 school committee of the sending district and the applicable board of selectmen or city council by
1271 December 1. A charter school shall make a payment required by this subsection not later than December
1272 31 annually.

1273 (kk) No teacher shall be hired by a commonwealth charter school who is not certified under
1274 section 38G unless the teacher has successfully passed the state teacher test as required in said section
1275 38G.

1276 (ll) Each charter school shall submit an annual report to the board of elementary and secondary
1277 education, to the local school committee of each district from which the charter school enrolls students,
1278 to each parent or guardian of its enrolled students and to each parent or guardian contemplating
1279 enrollment in that charter school. The annual report shall be issued not later than August 1 for the
1280 preceding school year. The annual report shall be in the form as may be prescribed by the board of
1281 elementary and secondary education and shall include at least the following components: (1) discussion
1282 of progress made toward the achievement of the goals set forth in the charter; (2) discussion of progress
1283 made toward the goals and retention efforts described in the school's recruitment and retention plan;
1284 provided, however, that if a charter school has not enrolled and retained a student population matching
1285 such goals, the report must explain why this is the case; (3) an accounting of how many students were
1286 designated as requiring special education services or English language services by language proficiency
1287 level as measured by the Massachusetts English Proficiency Assessment examination upon enrollment
1288 and how many of these students were subsequently no longer designated as such, along with a

1289 description of methods used by the school to achieve these outcomes and the rationale behind the
1290 methodologies used; (4) the number of students, teachers and administrators who have left each charter
1291 school and their reasons for leaving; (5) the number of students enrolled in the charter school eligible for
1292 free lunch as defined in section 2 of chapter 70; (6) the number of students enrolled in the charter school
1293 eligible for reduced price lunch as defined in section 2 of said chapter 70; (7) the number of homeless
1294 students enrolled in the charter school; and (8) the number of students in the care of the department of
1295 youth services enrolled in each charter school.

1296 The department shall adopt regulations creating a reporting requirement for a charter school's
1297 net asset balance at the end of the fiscal year. The report shall include, but not be limited to, the
1298 following types of information: (1) the revenue and expenditures for the year just ended with a specific
1299 accounting of the uses of public and private dollars; (2) how the capital needs component of the charter
1300 school's tuition was spent; (3) compensation and benefits for teachers, staff, administrators, executives
1301 and the board of trustees; (4) the amount of funds transferred to a management company; (5) the sources
1302 of surplus funds, specifically whether they are private or public; (6) how surplus funds were used in the
1303 previous fiscal year; and (7) the planned use of any surplus funds in the upcoming fiscal year or in future
1304 fiscal years. The regulations shall authorize the commissioner to recommend withholding the release of
1305 all or some part of the quarterly tuition payments for a school that has not timely filed the required
1306 report. The report shall be filed annually by January 1 with the department and the state auditor and
1307 shall be in a form prescribed by the state auditor. The state auditor may investigate the budget and
1308 finances of charter schools and their financial dealings, transactions and relationships and shall have the
1309 power to examine the records of charter schools and to prescribe methods of accounting and the
1310 rendering of periodic reports.

1311 (mm) The commissioner shall collect data on the racial, ethnic, and socio-economic make-up of
1312 the student enrollment of each charter school. The commissioner shall also collect data on the number of
1313 students enrolled in each charter school who have individual education plans under chapter 71B and

1314 those requiring English language learners programs under chapter 71A. The commissioner shall file the
1315 data annually with the clerks of the house and senate and with the joint committee on education not later
1316 than December 1. The commissioner shall also make these reports available on the department's website.

1317 (nn) Individuals or groups may complain to a charter school's board of trustees concerning any
1318 claimed violations of this section by the school. If, after presenting their complaint to the trustees, the
1319 individuals or groups believe their complaint has not been adequately addressed, they may submit their
1320 complaint to the board of elementary and secondary education which shall investigate the complaint and
1321 make a formal response.

1322 (oo) The board of elementary and secondary education shall adopt regulations for implementing
1323 the provisions of this section, including, but not limited to, regulations for determining the actual per
1324 pupil net school spending amounts in districts and for calculating charter school tuition amounts and
1325 regulations governing the financial conditions and obligations of management contracts. In adopting the
1326 regulations, the department shall consult with the executive office for administration and finance.

1327 SECTION 7. Chapter 71 of the General Laws, is hereby amended by inserting after section 90
1328 the following section:-

1329 Section 91. (a) An Innovation School shall be a public school, operating within a public school
1330 district, that is established for the purpose of improving school performance and student achievement
1331 through increased autonomy and flexibility. An Innovation School may be established as a new public
1332 school or as a conversion of an existing public school. A student who is enrolled in a school at the time
1333 it is established as an Innovation School shall retain the ability to remain enrolled in the school if the
1334 student chooses to do so.

1335 (b) An Innovation School may establish an advisory board of trustees. An Innovation School
1336 shall have increased autonomy and flexibility in 1 or more of the following areas: (1) curriculum; (2)

1337 budget; (3) school schedule and calendar; (4) staffing policies and procedures, including waivers from or
1338 modifications to, contracts or collective bargaining agreements; (5) school district policies and
1339 procedures; and (6) professional development. An Innovation School shall receive each school year from
1340 the school committee the same per pupil allocation as any other district school receives. An Innovation
1341 School may retain any unused funds and use the funds in subsequent school years. An Innovation School
1342 may establish a non-profit organization that may, among other things, assist the school with fundraising.
1343 A district may not reduce its funding to an Innovation School as a result of the school's fundraising
1344 activities.

1345 (c) An Innovation School established under this section shall be authorized by the local school
1346 committee and shall operate according to an innovation plan, which shall articulate the areas of
1347 autonomy and flexibility under subsection (b). To the extent practicable, the innovation plan shall be
1348 based on student outcome data, including, but not limited to: (1) student achievement on the
1349 Massachusetts Comprehensive Assessment System; (2) other measures of student achievement, as
1350 appropriate; (3) student promotion and graduation rates; (4) achievement data for different subgroups of
1351 students, including low-income students as defined by chapter 70, limited English-proficient students
1352 and students receiving special education; and (5) student attendance and dismissal rates.

1353 An Innovation School shall operate in accordance with the law regulating other public schools,
1354 except as the law conflicts with this section or any innovation plans created thereunder.

1355 (d) An Innovation School is a school in which: (i) faculty and leadership are primarily
1356 responsible for developing the innovation plan under which the school operates and leadership is
1357 responsible for meeting the terms of the innovation plan; or (ii) an external partner or partners is
1358 primarily responsible for developing the innovation plan under which the school operates and the
1359 external partner or partners are responsible for meeting the terms of the innovation plan.

1360 (e) Nothing in this section shall be construed to prohibit: (1) the establishment of an Innovation
1361 School as an academy within an existing public school; (2) the establishment of an Innovation School
1362 serving students from 2 or more school districts; provided, however, that all of the provisions of this
1363 section are met by each school district; (3) the simultaneous establishment of 2 or more Innovation
1364 Schools as an Innovation Schools Zone within a school district; or (4) the establishment of an Innovation
1365 School as a virtual public school that provides instruction to students through distance learning,
1366 including online learning programs and courses, subject to regulations adopted by the board of
1367 elementary and secondary education.

1368 (f) The following shall be eligible applicants for the purposes of establishing an Innovation
1369 School: (1) parents; (2) teachers; (3) parent-teacher organizations; (4) principals; (5) superintendents; (6)
1370 school committees; (7) teacher unions; (8) colleges and universities; (9) non-profit community-based
1371 organizations; (10) non-profit business or corporate entities; (11) non-profit charter school operators;
1372 (12) non-profit education management organizations; (13) educational collaboratives; (14) consortia of
1373 these groups; and (15) non-profit entities authorized by the commissioner. Private and parochial schools
1374 shall not be eligible to operate an Innovation School.

1375 (g) The local school committee, local teacher's union and superintendent of the district shall
1376 follow a process, consistent with this subsection and subsections (h) to (o), inclusive, for which an
1377 existing district school may be converted to an Innovation School or by which a new Innovation School
1378 may be established within the district. This process shall require that an eligible applicant proposing to
1379 establish an Innovation School prepare a prospectus regarding the proposed school. The prospectus shall
1380 include, but not be limited to, a description of: (1) whether the school will be a new school or a
1381 conversion of an existing school; (2) if the school is a new school, the proposed location of the school;
1382 (3) if the school is a conversion of an existing school, the school that is being proposed for conversion;
1383 (4) the external partners, if any, that will be involved in the school; (5) the number of students the school
1384 is anticipated to serve and the number of staff expected to be employed at the school; (6) the overall

1385 vision for the school, including improving school performance and student achievement; (7) specific
1386 needs or challenges the school shall be designed to address; (8) a preliminary assessment of the
1387 autonomy and flexibility under subsection (b) that the school will seek; (9) why such flexibility is
1388 desirable to carry out the objectives of the school; (10) anticipated components of the school's
1389 innovation plan; (11) a preliminary description of the process that shall be used to involve appropriate
1390 stakeholders in the development of the innovation plan; and (12) a proposed timetable for development
1391 and establishment of the proposed school.

1392 (h) Upon completion of the prospectus under subsection (g), an eligible applicant shall submit
1393 the prospectus to the superintendent, who shall within 30 days convene a screening committee consisting
1394 of the superintendent or a designee, a school committee member or a designee selected by the school
1395 committee and a representative from the leadership of the local teacher's union.

1396 The screening committee shall review the prospectus for the purpose of determining whether the
1397 prospectus: (1) presents a sound and coherent plan for improving school performance and student
1398 achievement; (2) supports or enhances existing educational efforts in the district; and (3) reasonably can
1399 be expanded into a comprehensive innovation plan. In the case of a new school, the committee will
1400 prepare an impact statement describing how the new school will affect the children and faculty in the
1401 district. Within 30 days of receiving a prospectus, the screening committee shall decide, on the basis of
1402 a two-thirds vote, to accept or reject the prospectus, or return the prospectus to the eligible applicant for
1403 revisions. If a prospectus is rejected or returned, the screening committee shall submit a detailed
1404 explanation for the decision to the applicant. A prospectus that is rejected or returned may be revised
1405 and resubmitted for subsequent consideration.

1406 (i) Upon the acceptance of a prospectus by the screening committee under subsection (h), the
1407 applicant shall form an innovation plan committee of not more than 11 individuals within 30 days. The
1408 purpose of the innovation plan committee shall be to: (1) develop the innovation plan described in

1409 subsection (c); (2) assure that appropriate stakeholders are represented in the development of the
1410 proposed Innovation School; and (3) provide meaningful opportunities for the stakeholders to contribute
1411 to the development of such school. The size and composition of the innovation plan committee shall be
1412 determined by the applicant; provided, however, that the committee shall include: (1) the applicant; (2)
1413 the superintendent or a designee; (3) a school committee member or a designee; (4) a parent who has 1
1414 or more children enrolled in the school, or in the case of a new school, from the district; (5) a principal
1415 employed by the district; and (6) 2 teachers employed by the district. The applicant shall select the
1416 parent from among nominees submitted by parent-teacher organizations in the district. If the district
1417 does not contain a parent-teacher organization or if the organization does not submit nominees, the
1418 applicant shall select the parent from among volunteers in the area or community the proposed school is
1419 expected to serve. The applicant shall select the principal and 1 teacher from among volunteers in the
1420 district and 1 teacher from among nominees submitted by the local teacher's union.

1421 (j) Upon the formation of the innovation plan committee in subsection (i), the committee shall
1422 develop the innovation plan for the proposed Innovation School. The purpose of the innovation plan
1423 shall be to comprehensively articulate the areas of autonomy and flexibility under subsection (b) that the
1424 proposed school will use. The innovation plan shall include, but not be limited to: (1) a curriculum plan,
1425 which shall include a detailed description of the curriculum and related programs for the proposed school
1426 and how the curriculum is expected to improve school performance and student achievement; (2) a
1427 budget plan, which shall include a detailed description of how funds shall be used differently in the
1428 proposed school to support school performance and student achievement; (3) a school schedule plan,
1429 which shall include a detailed description of the ways, if any, the program or calendar of the proposed
1430 school will be enhanced or expanded; (4) a staffing plan, which shall include a detailed description of
1431 how the school principal, administrators, faculty and staff will be recruited, employed, evaluated and
1432 compensated in the proposed school and any proposed waivers or modifications of collective bargaining
1433 agreements; (5) a policy and procedures plan, which shall include a detailed description of the unique

1434 operational policies and procedures to be used by the proposed school and how the procedures shall
1435 support school performance and student achievement; and (6) a professional development plan, which
1436 shall include a detailed description of how the school may provide high-quality professional
1437 development to its administrators, teachers and staff.

1438 In order to assess the proposed school across multiple measures of school performance and
1439 student success, the innovation plan shall include measurable annual goals including, but not limited to,
1440 the following: (1) student attendance and dismissal rates; (2) student safety and discipline; (3) student
1441 promotion and graduation; (4) student achievement on the Massachusetts Comprehensive Assessment
1442 System; (5) progress in areas of academic underperformance; (6) progress among subgroups of students,
1443 including low-income students as defined by chapter 70, limited English-proficient students and students
1444 receiving special education; (7) reduction of achievement gaps among different groups of students; (8)
1445 student acquisition and mastery of 21st-century skills; (9) development of college readiness, including at
1446 the elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
1447 academic success among students; and (12) building a culture of student support and success among
1448 school faculty and staff.

1449 A majority vote of the innovation plan committee shall be required for approval of the
1450 innovation plan.

1451 (k) The provisions of the collective bargaining agreements applicable to the administrators,
1452 teachers and staff in the school shall be considered to be in operation at an Innovation School, except to
1453 the extent the provisions are waived or modified under the innovation plan and such waivers or
1454 modifications are approved under subsections (l) and (m).

1455 (l) In the case of a school conversion, upon completion of the innovation plan in subsection (j), ,
1456 the applicant shall submit the innovation plan to teachers in the school that is proposed for conversion
1457 for approval by secret ballot within 30 days. A two-thirds vote of the teachers shall be required to

1458 approve the plan. Upon approval of an innovation plan by the teachers, the plan shall be submitted
1459 immediately to the school committee. If a two-thirds vote is not achieved, the innovation plan
1460 committee may revise the innovation plan as necessary and submit the revised plan to the teachers for a
1461 subsequent vote.

1462 In the case of a new school, upon the completion of the innovation plan in subsection (j), the
1463 applicant, a local union and the superintendent shall negotiate waivers or modifications to the applicable
1464 collective bargaining agreement necessary for the school to implement the innovation plan. Upon the
1465 conclusion of the negotiations, the innovation plan shall be submitted immediately to the school
1466 committee. If the negotiations have not resulted in an agreement within 40 days, either party may
1467 petition the division of labor relations for the selection of an arbitrator. The division shall select an
1468 arbitrator within 3 days of the petition from a list submitted by the parties. The arbitrator shall conduct a
1469 hearing within 14 days of the arbitrator's selection. The arbitrator shall consider the parties' positions
1470 and the needs of the students in the district. The arbitrator's decision shall be consistent with the
1471 contents of the innovation plan developed by the applicant. The arbitrator shall submit a decision which
1472 shall be final and binding on the parties, within 14 days of the close of the hearing.

1473 (m) Upon receipt of an innovation plan regarding an Innovation School, a school committee
1474 shall hold at least 1 public hearing on the innovation plan. After the public hearing, but not later than 60
1475 days after the receipt of the innovation plan, the school committee shall, on the basis of the quality of the
1476 plan and in consideration of comments submitted by the public, undertake a final vote to authorize the
1477 Innovation School for a period of not more than 5 years, subject to subsection (n). Approval of the
1478 majority of the school committee as fully constituted shall be required to authorize an Innovation School.
1479 If the approval is not obtained, an innovation plan committee may revise the innovation plan and: (i) in
1480 the case of a new school, submit the revised plan to the school committee for a subsequent vote; or (ii)
1481 in the case of a conversion, submit the revised plan to the teachers in the school that is proposed for
1482 conversion for a vote, pursuant to subsection (l); provided, however, that the plan meets the

1483 requirements for approval under subsection (l), submit the revised plan to the school committee for a
1484 subsequent vote. A school committee shall vote on a revised plan submitted pursuant to this subsection
1485 within 60 days of the receipt of such plan and contract.

1486 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the
1487 superintendent at least annually. The superintendent shall transmit the evaluation to the school
1488 committee and the commissioner of elementary and secondary education. The purpose of the evaluation
1489 shall be to determine whether the school has met the annual goals in its innovation plan and assess the
1490 implementation of the innovation plan at the school. If the school committee determines, on the advice
1491 of the superintendent, that the school has not met 1 or more goals in the innovation plan and that the
1492 failure to meet the goals may be corrected through reasonable modification of the plan, the school
1493 committee may amend the innovation plan as necessary. After the superintendent assesses the
1494 implementation of the innovation plan at the school, the school committee may, on the advice of the
1495 superintendent, amend the plan if the school committee determines that the amendment is necessary in
1496 view of subsequent changes in the district that affect 1 or more components of the plan, including, but
1497 not limited to, changes to contracts, collective bargaining agreements, or school district policies;
1498 provided, however, that an amendment involving a subsequent change to a teacher contract shall first be
1499 approved by teachers at the school, under the procedures in subsection (l).

1500 If the school committee determines, on the advice of the superintendent, that the school has
1501 substantially failed to meet multiple goals in the innovation plan, the school committee may: (1) limit 1
1502 or more components of the innovation plan; (2) suspend 1 or more components of the innovation plan; or
1503 (3) terminate the authorization of the school; provided, however, that the limitation or suspension shall
1504 not take place before the completion of the second full year of the operation of the school and the
1505 termination may not take place before the completion of the third full year of the operation of the school.

1506 (o) At the end of the period of authorization of an Innovation School approved under subsection
1507 (m), the leadership of the school may petition the school committee to extend the authorization of the
1508 school for an additional period of not more than 5 years. Before submitting the petition, the leadership
1509 of the school shall convene a selection of school stakeholders, including, but not limited to,
1510 administrators, teachers, other school staff, parents and external partners, as applicable, to discuss
1511 whether the innovation plan at the school requires revision and to solicit recommendations as to the
1512 potential revisions. After considering the recommendations of the stakeholder group, the leadership of
1513 the school and the applicable superintendent shall jointly update the innovation plan as necessary;
1514 provided, however, that a proposal regarding a new waiver or exemption from the local teacher's union
1515 contract shall be approved by teachers at the school, under subsection (l). Approval of the majority of
1516 the school committee as fully constituted shall be required to extend the period of authorization of an
1517 Innovation School. If the approval is not obtained, the leadership of the school and superintendent may
1518 jointly revise the innovation plan and submit the revised plan to the school committee for a subsequent
1519 vote. If the school committee does not extend the authorization of the school, the leadership of the
1520 school may seek the authorization from the board of elementary and secondary education. The board
1521 shall vote on the requested extension within 60 days of its receipt for approval of such extension.

1522 (p) The commissioner of elementary and secondary education shall, to the extent practicable, be
1523 responsible for the following: (1) the provision of planning and implementation grants to eligible
1524 applicants to establish Innovation Schools; (2) provision of technical assistance and support to eligible
1525 applicants; (3) the collection and publication of data and research related to the Innovation Schools
1526 initiative; (4) the collection and publication of data and research related to successful programs serving
1527 limited English-proficient students attending Innovation Schools; and (5) the collection and
1528 dissemination of best practices in Innovation Schools that may be adopted by other public schools. The
1529 board of elementary and secondary education shall promulgate regulations necessary to carry out this
1530 section. Annually, the commissioner shall report to the joint committee on education, the house and

1531 senate committees on ways and means, the speaker of the house of representatives and the senate
1532 president on the implementation and fiscal impact of this section.

1533 SECTION 8. For the school districts in which net school spending on charter school tuition does
1534 not exceed 18 per cent as set forth in subsection (i) of section 89 of chapter 71, the following shall apply:
1535 (1) in fiscal year 2011, a public school district's total charter school tuition payment to commonwealth
1536 charter schools shall be limited to 12 per cent of the district's net school spending; (2) in fiscal year
1537 2012, a public school district's total charter school tuition payment to commonwealth charter schools
1538 shall be limited to 13 per cent of the district's net school spending; (3) in fiscal year 2013, a public school
1539 district's total charter school tuition payment to commonwealth charter schools shall be limited to 14 per
1540 cent of the district's net school spending; (4) in fiscal year 2014, a public school district's total charter
1541 school tuition payment to commonwealth charter schools shall be limited to 15 per cent of the district's
1542 net school spending; (5) in fiscal year 2015, a public school district's total charter school tuition payment
1543 to commonwealth charter schools shall be limited to 16 per cent of the district's net school spending; (6)
1544 in fiscal year 2016, a public school district's total charter tuition payment to commonwealth charter
1545 schools shall be limited to 17 per cent of the district's net school spending; and (7) in fiscal year 2017, a
1546 public school district's total charter tuition payment to commonwealth charter schools shall be limited to
1547 18 per cent of the district's net school spending.

1548 SECTION 9. Notwithstanding any general or special law to the contrary the department of
1549 elementary and secondary education shall draft a model policy for school districts regarding the grade
1550 placement and eligibility for high school graduation of students leaving a commonwealth charter school
1551 and seeking to enroll in a district school. In drafting the model policy, the department shall confer with
1552 school districts and commonwealth charter schools. The model policy shall be made available not later
1553 than December 31, 2010. Until a school district adopts a policy regarding the grade placement or
1554 eligibility for high school graduation of students leaving a commonwealth charter school, when
1555 determining the appropriate grade placement or eligibility for high school graduation of a student leaving

1556 a commonwealth charter school and enrolling in a district school, a district shall examine the course of
1557 study and level of academic attainment of the student.

1558 SECTION 10. Notwithstanding any general or special law to the contrary, a charter school
1559 whose charter was granted before January 1, 2010 shall have a recruitment and retention plan required
1560 under subsection (f) of section 89 of chapter 71 of the General Laws in effect for the 2011-2012 school
1561 year or at the time of its next charter renewal, whichever occurs first.

1562 SECTION 11. Notwithstanding subsection (ii) of section 89 of chapter 71 of the General Laws,
1563 any district that incurred an increase in commonwealth charter tuition costs between July 1, 2008 and
1564 June 30, 2010 shall be reimbursed in an amount equal to 100 per cent of the increase in the year in which
1565 the increase occurs, 60 per cent of that amount in the first year following and 40 per cent of that amount
1566 in the second year following.